



IOWA ADMINISTRATIVE BULLETIN

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August 30, 2006

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

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SUBMISSION DEADLINE

Friday, September 8, 2006

Friday, September 22, 2006

Friday, October 6, 2006

ISSUE DATE

September 27, 2006

October 11, 2006

October 25, 2006

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

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1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 12, 2006, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Selling of goods or services, 1.7, Filed Without Notice **ARC 5317B** 8/16/06
 Information technology enterprise operational standards, ch 25.9, Notice **ARC 5338B** 8/30/06
 Security operational standards—assessment and enforcement, 25.11, Notice **ARC 5339B** 8/30/06

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BANKING DIVISION[187]

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CREDIT UNION DIVISION[189]

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 Special education endorsements, 15.3 to 15.20, Filed **ARC 5342B** 8/30/06
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INSURANCE DIVISION[191]

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- Property and casualty insurance—rate and form filing procedures, 20.1 to 20.4, Notice **ARC 5363B** 8/30/06
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- Development and management of recreation trails on state forests, parks, preserves and
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- Fishing regulations—length and daily bag limits, 81.2(2), 81.2(3), 81.2(12), Notice **ARC 5348B** 8/30/06
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REGENTS BOARD[681]

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Individual, corporation, fiduciary income tax—clarification of existing rules,
amendments to chs 38 to 42, 45, 46, 48 to 50, 52, 54, 56, 58, 59, 61, 86, 89, Filed **ARC 5321B** 8/16/06

Individual and corporation income tax credits, 40.1, 40.67, 40.68, 41.5(12) to 41.5(14),
42.2(11)"b," 52.7(3)"c," 52.7(5)"c," Notice **ARC 5325B** 8/16/06

Ethanol blended gasoline, biodiesel blended fuel and E-85 gasoline promotion tax credits,
42.16, 42.16(1), 42.16(3), 42.31, 42.32, 52.19, 52.19(1), 52.19(3),
52.30, 52.31, Notice **ARC 5360B** 8/30/06

Soy-based transformer fluid tax credit, 42.33, 52.32, Notice **ARC 5357B** 8/30/06

Property tax, 70.12, 71.21(2)"h," 71.21(4), 71.22(3), 80.1(2)"k," 80.2(2)"c," 80.3(7),
80.4(11), 80.19, 80.21, 80.23 to 80.25, Notice **ARC 5358B** 8/30/06

Inheritance tax, 86.2(1)"c" and "d," 86.9, 86.14(7), Notice **ARC 5359B** 8/30/06

SAVINGS AND LOAN DIVISION[197]

COMMERCE DEPARTMENT[181]"umbrella"

Electronic transfer of funds—debit cards at merchant locations, 14.2, 14.4(3),
14.4(3)"b"(4) and (5), 14.5(1), 14.6, Notice **ARC 5355B** 8/30/06

SECRETARY OF STATE[721]

Agricultural landholding reporting, adopt ch 11, Notice **ARC 5328B** 8/30/06

Election instructions, voting systems, vote counting—guidance and clarification, 21.2(1)"k,"
21.6, 21.301, 22.39 to 22.43, 22.52, 22.201(2), 22.240(3), 22.261(20)"c" and "j,"
22.350, 22.463(1)"a," 22.464, 22.464(4), 26.2(4), 26.105(2), 26.105(3) Notice **ARC 5371B** 8/30/06

Life science enterprises, adopt ch 46, Notice **ARC 5340B** 8/30/06

STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Indigent defense services; attorney fee claims, 7.1, 12.4, 12.5(1), 12.5(2), 12.6(3)"a" and "b,"
14.3, 14.5(1)"b," Filed **ARC 5345B** 8/30/06

TRANSPORTATION DEPARTMENT[761]

Declaratory orders; division address updated, ch 10 title, 10.1(3), 10.4, 11.5(3), 11.8(2);
adopt ch 12; 28.2, 122.2, Notice **ARC 5327B** 8/30/06

Driver licensing, 602.11 to 602.13, 602.18, 602.19, 602.21, 602.25,
602.26, 604.21, 604.31, 605.2(2), 605.3 to 605.5, 605.20, 607.16, 607.18, 607.49(6)"b" and "g,"
615.23(2), 615.25, 615.42(1), 615.43, 620.10, 630.2, 634.6(1), 634.7(1)"b,"
635.2(9), 635.3(2)"a," 635.5(2)"a"(1), Notice **ARC 5330B** 8/30/06

Aircraft registration—information and forms, 750.3, Notice **ARC 5329B** 8/30/06

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Sale of goods and services by officials or employees of the utilities board, 1.6, 1.6(1) to 1.6(9),

Filed **ARC 5316B** 8/16/06Accounting rules for local exchange utilities, 16.5, 16.9, Filed **ARC 5315B** 8/16/06**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Workers' compensation settlements and commutations—forms and procedures, 3.1(5), 3.1(15), 3.1(16),

3.1(20) to 3.1(25), 4.9(1), 4.30, 6.1, 6.2(9), 6.5 to 6.8, Notice **ARC 5331B** 8/30/06**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
21884 483rd Lane
Chariton, Iowa 50049

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-5995

Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
P.O. Box 140
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

Sonya Streit
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ADMINISTRATIVE SERVICES DEPARTMENT[11]		
Information technology operational standards, 25.9 IAB 8/30/06 ARC 5338B	Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa	September 19, 2006 10 a.m.
Assessment and enforcement of security operational standards, 25.11 IAB 8/30/06 ARC 5339B	Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa	September 19, 2006 10 a.m.
CITY FINANCE COMMITTEE[545]		
Employee benefits, 4.1, 4.3 IAB 8/16/06 ARC 5310B	Room G14 State Capitol Bldg. Des Moines, Iowa	September 5, 2006 10 a.m.
CREDIT UNION DIVISION[189]		
Electronic transfer of funds, 24.2, 24.4(3) IAB 8/30/06 ARC 5347B	Division Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 19, 2006 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Wage-benefit requirements, 2.4(2), 68.1, 68.3(3) IAB 8/16/06 ARC 5301B (ICN Network) (See also ARC 5300B)	ICN Conference Room, 2nd Floor 200 E. Grand Ave. Des Moines, Iowa (For other hearing locations, see the Department's Web site at www.iowalifechanging.com)	September 12, 2006 4 to 6 p.m.
Housing fund, ch 25 IAB 8/30/06 ARC 5336B	NW Conference Room, First Floor 200 E. Grand Ave. Des Moines, Iowa	September 28, 2006 1:30 p.m.
Enterprise zones, amendments to ch 59 IAB 8/16/06 ARC 5303B (ICN Network) (See also ARC 5302B)	ICN Conference Room, 2nd Floor 200 E. Grand Ave. Des Moines, Iowa (For other hearing locations, see the Department's Web site at www.iowalifechanging.com)	September 12, 2006 4 to 6 p.m.
Port authority grant program, ch 70 IAB 8/16/06 ARC 5304B (ICN Network) (See also ARC 5305B)	ICN Conference Room, 2nd Floor 200 E. Grand Ave. Des Moines, Iowa (For other hearing locations, see the Department's Web site at www.iowalifechanging.com)	September 12, 2006 4 to 6 p.m.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] (Cont'd)

Targeted jobs withholding tax credit program, ch 71 IAB 8/16/06 ARC 5306B (ICN Network) (See also ARC 5307B)	ICN Conference Room, 2nd Floor 200 E. Grand Ave. Des Moines, Iowa (For other hearing locations, see the Department's Web site at www.iowalifechanging.com)	September 12, 2006 4 to 6 p.m.
Iowa wine and beer promotion grant program, 104.3(1) IAB 8/30/06 ARC 5335B	Tourism Conference Rm., First Floor 200 E. Grand Ave. Des Moines, Iowa	September 19, 2006 1:30 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Practitioner endorsements, 14.106, 14.140(6), 14.140(8), 14.140(9), 14.141 IAB 8/30/06 ARC 5343B	Room 3 SW, Third Floor Grimes State Office Bldg. East 14th and Grand Ave. Des Moines, Iowa	September 20, 2006 1 p.m.
Evaluator endorsement and license, 20.57 IAB 8/30/06 ARC 5344B	Room 3 SW, Third Floor Grimes State Office Bldg. East 14th and Grand Ave. Des Moines, Iowa	September 20, 2006 1:30 p.m.

HUMAN SERVICES DIVISION[441]

Remedial services, amendments to chs 77 to 79, 88 IAB 8/30/06 ARC 5368B	NE Conference Room, Fifth Floor Hoover State Office Bldg. 1305 E. Walnut St. Des Moines, Iowa	September 20, 2006 10 to 11:30 a.m.
Child welfare services, amendments to chs 156, 181, 182, 185, 202 IAB 8/30/06 ARC 5372B	NE Conference Room, Fifth Floor Hoover State Office Bldg. 1305 E. Walnut St. Des Moines, Iowa	September 20, 2006 10 to 11:30 a.m.
Family support subsidy program; comprehensive family support program, amendments to ch 184 IAB 8/30/06 ARC 5367B	ASK Resource Center 321 E. Sixth St. Des Moines, Iowa	September 20, 2006 4 to 6 p.m.

INSURANCE DIVISION[191]

Contested cases, amendments to ch 3 IAB 8/30/06 ARC 5365B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Licensing of insurance producers, amendments to ch 10 IAB 8/30/06 ARC 5361B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Continuing education for insurance producers, 11.1 to 11.14 IAB 8/30/06 ARC 5366B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Property and casualty rate and form filing procedures, 20.1 to 20.4 IAB 8/30/06 ARC 5363B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.

INSURANCE DIVISION[191] (Cont'd)

Life insurance policies, 30.5 IAB 8/30/06 ARC 5364B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.
Accident and health insurance, 35.7 IAB 8/30/06 ARC 5362B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.
Individual accident and health standards, 36.5(6), 36.6 IAB 8/16/06 ARC 5322B	Division Conference Room 330 Maple St. Des Moines, Iowa	September 5, 2006 10 a.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Organization; registration, chs 1, 2 IAB 8/2/06 ARC 5289B	Second Floor Professional Licensing Conference Room 1920 S.E. Hulsizer Road Ankeny, Iowa	September 15, 2006 9 a.m.
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IOWA FINANCE AUTHORITY[265]

Wastewater treatment financial assistance program, ch 28 IAB 8/30/06 ARC 5346B	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 22, 2006 10 a.m.
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NATURAL RESOURCE COMMISSION[571]

Game management areas, 51.1, 51.3(2), 51.4 to 5.12 IAB 8/30/06 ARC 5353B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 27, 2006 10 a.m.
Recreation trails, 67.1 to 67.9 IAB 8/30/06 ARC 5352B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 27, 2006 10 a.m.
Fishing regulations, 81.2(2) IAB 8/30/06 ARC 5348B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 22, 2006 1 p.m.
	Clay County Conservation Board Oneota Cabin 420 10th Ave. SE Spencer, Iowa	September 25, 2006 7 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Physician assistants, 327.1(1) IAB 8/16/06 ARC 5295B	Board Conference Room, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	September 6, 2006 9 to 9:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Declaratory orders, 10.1(3), 10.4, 11.5(3), 11.8(2); ch 12; 28.2, 122.2 IAB 8/30/06 ARC 5327B	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	September 21, 2006 1 p.m. (If requested)
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TRANSPORTATION DEPARTMENT[761] (Cont'd)

Driver licensing, amendments to
chs 602, 604, 605, 607, 615,
620, 630, 634, 635
IAB 8/30/06 **ARC 5330B**

DOT Conference Room
Park Fair Mall
100 Euclid Ave.
Des Moines, Iowa

September 21, 2006
10 a.m.
(If requested)

Aircraft registration,
750.3
IAB 8/30/06 **ARC 5329B**

Modal Conference Room
800 Lincoln Way
Ames, Iowa

September 21, 2006
10 a.m.
(If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Bureau[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Grow Iowa Values Board[264]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
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PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 5338B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 25, “Information Technology Operational Standards,” Iowa Administrative Code.

The Iowa Technology Governance Board in conjunction with the Department of Administrative Services develops and adopts information technology operational standards. The proposed rule establishes the process for approval and adoption of technical operational standards, and provides for a public comment period.

The new rule applies to all participating agencies as defined in Chapter 25.

The Department will accept public comments on the proposed rule until 4:30 p.m. on September 19, 2006. Interested persons may submit written, oral or electronic comments to Marianne Mickelson, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0105; telephone (515)281-6904; fax (515)242-5974; or E-mail Marianne.Mickelson@iowa.gov.

There will be a public hearing on September 19, 2006, at 10 a.m. in the Hoover State Office Building, Level A, Conference Room 4, Des Moines, Iowa, at which time all interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule. Persons with special needs should contact the Department of Administrative Services prior to the hearing if accommodations are needed.

This rule is intended to implement Iowa Code section 8A.104.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt the following new rule:

11—25.9(8A) Adoption of enterprise operational standards. Information technology operational standards shall be approved by the technology governance board (board). Once approved, standards shall be posted for public comment for ten days on the department of administrative services, information technology enterprise standards Web site pursuant to IAC 11—25.7(8A). All comments shall be provided to the board. The board shall determine if an operational standard should be adopted as originally written or be modified as a result of public comment. Modified standards shall be returned to the board for final approval before adoption.

Operational standards approved by the board shall be adopted by posting on the department of administrative ser-

vices, information technology enterprise standards Web site and notifying affected agencies of the standard and the effective date.

ARC 5339B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 25, “Information Technology Operational Standards,” Iowa Administrative Code.

The Iowa Technology Governance Board in conjunction with the Department is to develop and adopt information technology standards. The proposed new rule provides for assessment and enforcement of standards for maintaining security, ensuring the integrity of the state’s information resources and preventing the disclosure of confidential records. Threats to security and the effectiveness of security protection measures are rapidly changing. To avoid unintended consequences or ineffective standards, compliance with the adopted standards is essential. The rule provides for a state chief information security officer within the Department to assess compliance with security standards and to seek enforcement recommendations from the Technology Governance Board for action by the Director.

Proposed new rule 11—25.11(8A) allows agencies to request additional time to comply with adopted security operational standards or to request a variance in the implementation of a standard. The proposed new rule establishes authority for the chief information security officer to assess compliance with security operational standards and procedures for enforcing noncompliance. The proposed new rule will apply to all participating agencies as defined in Chapter 25.

The Department will accept public comments on the proposed rule until 4:30 p.m. on September 19, 2006. Interested persons may submit written, oral or electronic comments to Marianne Mickelson, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0105; telephone (515)281-6904; fax (515)242-5974; or E-mail Marianne.Mickelson@iowa.gov.

There will be a public hearing on September 19, 2006, at 10 a.m. in the Hoover State Office Building, Level A, Conference Room 4, Des Moines, Iowa, at which time all interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule. Persons with special needs should contact the Department of Administrative Services prior to the hearing if accommodations are needed.

This rule is intended to implement Iowa Code section 8A.104.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** rule:

11—25.11(8A) Assessment and enforcement of security operational standards. The director shall designate a state chief information security officer for the department who is responsible for assessment of information security standards adopted by the technology governance board. The chief information security officer, or designee, shall assess compliance with security standards and seek recommendations for enforcement from the board when agencies are found to be noncompliant.

25.11(1) Requests for additional time to comply with security standards. An agency may request additional time to comply with adopted security standards by sending a written request to the chief information security officer. The written request must include the reason for the request, a description of what the agency will do to achieve compliance, and a time line for achieving compliance. The chief information security officer, or designee, shall approve or deny the request in writing to the agency within 15 calendar days of receipt of the request. The agency may modify and resubmit the request within 30 calendar days of receipt of notification of the decision. The chief information security officer shall approve or deny the resubmitted request in writing to the agency within 15 calendar days of receipt of notification. If the resubmitted request is denied, the agency may request review by the board at its next regularly scheduled meeting.

25.11(2) Requests for a variance in security standards. An agency may request a variance in the application of operational standards for security by sending a written request to the chief information security officer. A variance allows the agency to implement security measures different from the standard if the different measures, as determined by the chief information security officer, provide an equal or greater balance between security and service delivery. The written request must explain any change in risk to information technology resources within the agency and to resources managed by others which would result from the variance. Within 30 calendar days of receipt of the request for variance, the chief information security officer, or designee, shall approve, deny or propose an alternative to the request in writing to the agency. The agency may request review by the board at its next regularly scheduled meeting.

25.11(3) Compliance assessments. The chief information security officer shall periodically assess agency compliance with security standards. Agencies shall provide appropriate access and assistance to complete the assessments. Agencies may request the acceptance of results of like assessments conducted by third parties in lieu of an assessment by the chief information security officer.

25.11(4) Determination of noncompliance. If the chief information security officer determines that the agency is noncompliant, the chief information security officer shall send to the director of the noncompliant agency, the director and the board written notification of the finding and the steps that the agency must take to become compliant. Within 30 calendar days of receipt of the noncompliance notification, the agency shall submit to the chief information security officer a written plan describing the actions the agency will take to achieve compliance or submit a written request for a variance from the standard pursuant to subrule 25.11(2). Within 15 calendar days of receipt of the agency's plan or request for vari-

ance, the chief information security officer, or designee, shall approve, deny or propose an alternative to the request in writing to the agency. The agency may request review by the board at its next regularly scheduled meeting.

25.11(5) Remedies. When an agency is determined to be noncompliant by the chief information security officer, or designee, and all requests for review by the board have been exhausted, the chief information security officer may seek enforcement recommendations from the board for action by the director.

The board's recommendations shall reduce risk to acceptable levels and include considerations for cost and impact on service delivery. When other measures do not reduce risk to an acceptable level, the board may recommend the disconnection of all shared services, including access to shared data, until compliance is achieved or a remediation plan for achieving compliance is approved by the board. If the noncompliant agency is unable to implement the recommended remediation plan and the board determines that the noncompliance continues to represent an unacceptable risk to state resources, the board may submit to the governor a written recommendation for the department's information technology enterprise to assume responsibility for the management of the noncompliant agency's information technology systems. The noncompliant agency shall reimburse the information technology enterprise for services at the published rates.

25.11(6) Emergency remediation. When an information technology incident is determined by the chief information security officer to be a threat to critical state information resources or information resources outside state government, the director, the chief operating officer of the department's information technology enterprise, or a designee will request the immediate shutdown or disconnection of the agency technology services that are contributing to the threat. If the agency does not immediately comply, the information technology enterprise, Iowa communications network or other body may disconnect the agency from all shared services. The agency will be reconnected to shared services when the chief information security officer determines there is no longer a critical threat.

ARC 5356B**BANKING DIVISION[187]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 527.11, the Banking Division of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 10, "Electronic Transfer of Funds," Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Interested persons may make written comments on the proposed amendments on or before September 19, 2006. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally

BANKING DIVISION[187](cont'd)

should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **187—10.2(524)**, definition of "front-end processor," to read as follows:

"Front-end processor" means a data processing device directly connected to a satellite terminal which is utilized in an electronic funds transfer system in conjunction with only one transaction authorization computer which is capable of authorizing or rejecting transactions initiated at the satellite terminal through verification of customer account data maintained at the authorization computer by only those financial institutions which are exclusively served by the front-end processor and authorization computer. A front-end processor and authorization computer which are directly connected constitute a single data processing center, as defined by Iowa law, only if the specified conditions are satisfied. All satellite terminal transactions received by the front-end processor of the data processing center which cannot be immediately authorized or rejected by the data processing center's authorization computer must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9). All satellite terminal transactions received by the front-end processor of the data processing center which are capable of being immediately authorized or rejected by that data processing center's authorization computer must be transactions initiated by cardholders of financial institutions directly serviced by that data processing center and must be immediately authorized or rejected by the data processing center. *facility directly connected to an on-line point-of-sale terminal, as defined by Iowa law, which is utilized in an electronic funds transfer system in conjunction with another data processing facility that is certified by an approved central routing unit. A front-end processor and certified data processing facility that are directly connected constitute a single data processing center, as defined by Iowa law, only if the following specified conditions are satisfied: (1) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility that cannot be immediately authorized or rejected by the certified data processing facility must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9); and (2) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility which are capable of being immediately authorized or rejected by the certified data processing facility must be transactions initiated by cardholders of financial institutions directly serviced by the certified data processing facility and must be immediately authorized or rejected by the certified data processing facility.*

ITEM 2. Amend subrule 10.4(3), introductory paragraph, to read as follows:

10.4(3) Certification processes of a central routing unit to demonstrate compliance. To assist the administrators with compliance examinations of a central routing unit, a central routing unit shall certify financial institutions, satellite termi-

nals located in the state, and data processing centers directly connected to ~~satellite terminals~~ *the central routing unit* located in this state or directly connected to cardholder financial institutions, to demonstrate that satellite terminals located in this state and the central routing unit are performing in accordance with the requirements of Iowa Code sections 527.5 and 527.9.

ITEM 3. Rescind and reserve subparagraph **10.4(3)“b”(4)**.

ITEM 4. Amend subparagraph **10.4(3)“b”(5)** to read as follows:

(5) If a satellite terminal located in the state is not directly connected to an approved central routing unit, then the satellite terminal must be directly connected to a data processing center which is directly connected to an approved central routing unit. A data processing center or central routing unit is directly connected to a satellite terminal when a transaction transmission from the satellite terminal is received by the data processing center or central routing unit prior to being received or processed by or routed to any other data processing center or facility which categorizes, separates or routes the transaction transmission. *A data processing facility certified by a central routing unit and a front-end processor directly connected to an on-line point-of-sale satellite terminal and directly linked to the data processing facility both constitute a data processing center for purposes of this paragraph.*

ARC 5347B

CREDIT UNION DIVISION[189]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 527.11, the Division of Credit Unions of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 24, “Electronic Transfer of Funds,” Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Interested persons may make written comments on the proposed amendments on or before September 19, 2006. Such written material should be directed to the Superintendent of Credit Unions, Division of Credit Unions, Department of Commerce, 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Credit Unions, Department of Commerce, at (515)281-6516 or at 200 East Grand Avenue, Suite 370.

Also, a public hearing will be held on September 19, 2006, at 10 a.m. in the Division of Credit Unions Conference Room at 200 East Grand Avenue, Des Moines. Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Superintendent of Credit Unions at least one day prior to the date of the public hearing.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.11.

CREDIT UNION DIVISION[189](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **189—24.2(533)**, definition of “front-end processor,” to read as follows:

“Front-end processor” means a data processing device directly connected to a satellite terminal which is utilized in an electronic funds transfer system in conjunction with only one transaction authorization computer which is capable of authorizing or rejecting transactions initiated at the satellite terminal through verification of customer account data maintained at the authorization computer by only those financial institutions which are exclusively served by the front-end processor and authorization computer. A front-end processor and authorization computer which are directly connected constitute a single data processing center, as defined by Iowa law, only if the specified conditions are satisfied. All satellite terminal transactions received by the front-end processor of the data processing center which cannot be immediately authorized or rejected by the data processing center's authorization computer must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9). All satellite terminal transactions received by the front-end processor of the data processing center which are capable of being immediately authorized or rejected by that data processing center's authorization computer must be transactions initiated by cardholders of financial institutions directly serviced by that data processing center and must be immediately authorized or rejected by the data processing center. *facility directly connected to an on-line point-of-sale terminal, as defined by Iowa law, which is utilized in an electronic funds transfer system in conjunction with another data processing facility that is certified by an approved central routing unit. A front-end processor and certified data processing facility that are directly connected constitute a single data processing center, as defined by Iowa law, only if the following specified conditions are satisfied: (1) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility that cannot be immediately authorized or rejected by the certified data processing facility must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9); and (2) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility which are capable of being immediately authorized or rejected by the certified data processing facility must be transactions initiated by cardholders of financial institutions directly serviced by the certified data processing facility and must be immediately authorized or rejected by the certified data processing facility.*

ITEM 2. Amend subrule 24.4(3), introductory paragraph, to read as follows:

24.4(3) Certification processes of a central routing unit to demonstrate compliance. To assist the administrators with compliance examinations of a central routing unit, a central routing unit shall certify financial institutions, satellite terminals located in the state, and data processing centers directly connected to satellite terminals *the central routing unit* located in this state or directly connected to cardholder financial institutions, to demonstrate that satellite terminals lo-

cated in this state and the central routing unit are performing in accordance with the requirements of Iowa Code sections 527.5 and 527.9.

ITEM 3. Rescind and reserve subparagraph **24.4(3)“b”(4)**.

ITEM 4. Amend subparagraph **24.4(3)“b”(5)** to read as follows:

(5) If a satellite terminal located in the state is not directly connected to an approved central routing unit, then the satellite terminal must be directly connected to a data processing center which is directly connected to an approved central routing unit. A data processing center or central routing unit is directly connected to a satellite terminal when a transaction transmission from the satellite terminal is received by the data processing center or central routing unit prior to being received or processed by or routed to any other data processing center or facility which categorizes, separates or routes the transaction transmission. *A data processing facility certified by a central routing unit and a front-end processor directly connected to an on-line point-of-sale satellite terminal and directly linked to the data processing facility both constitute a data processing center for purposes of this paragraph.*

ARC 5336B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to rescind Chapter 25, “Housing Fund,” Iowa Administrative Code, and adopt a new chapter with the same title.

The proposed amendment rescinds existing Chapter 25 and adopts a new Chapter 25 to provide substantive and technical changes. The extent of the revisions necessitated establishing a new chapter. Substantive changes include: (1) adding new definitions, (2) eliminating the use of subrecipient contracting by recipients, (3) requiring separate contracts for general administration and technical service provision, and (4) establishing new limits on per unit subsidy. The substantive changes are being proposed to ensure appropriate accountability standards at both the local and state levels. Technical changes were made for clarification.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on September 28, 2006. Interested persons may submit written or oral comments by contacting Terry Vestal, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4850.

A public hearing to receive comments about the proposed new chapter will be held on September 28, 2006, at 1:30 p.m. at the above address in the NW first floor conference room. Individuals interested in providing comments at the hearing

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should contact Terry Vestal by 4 p.m. on September 27, 2006, to be placed on the hearing agenda.

These rules are intended to implement Iowa Code section 15.108(1)“a.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind 261—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25 HOUSING FUND

261—25.1(15) Purpose. The primary purpose of the housing fund, made up of federal CDBG and HOME funds, is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans.

261—25.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

“Activity” means one or more specific housing activities, projects or programs assisted through the housing fund.

“Administrative plan” means a document that a housing fund recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

“American Dream Downpayment Initiative (ADDI)” means a program to be used for the purpose of making down payment and closing cost or acquisition assistance to low-income families who are first-time homebuyers for the purchase of single-family housing that will serve as the family's principal residence.

“CDBG” means the community development block grant nonentitlement program, the grant program authorized by Title I of the Housing and Community Development Act of 1974, for counties and cities, except those designated by HUD as entitlement areas.

“CHDO” means community housing development organization, a nonprofit organization registered with the Iowa secretary of state and certified as such by IDED, pursuant to 24 CFR 92.2 (April 1, 1997).

“Consolidated plan” means the state's housing and community development planning document and the annual action plan update approved by HUD.

“Displaced homemaker” means an individual who (1) is an adult; (2) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

“First-time homebuyer” means an individual or an individual and the individual's spouse who have not owned a home during the three-year period before the purchase of a home with HOME or ADDI assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with the individual's spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a

dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“HART” means the housing application review team, a body of affordable housing funding agencies which meets to review housing proposals.

“HOME” means the HOME investment partnerships program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

“Housing fund” means the program implemented by this chapter and funded through the state's annual HOME allocation from HUD and 25 percent of the state's CDBG allocation from HUD.

“HUD” means the U.S. Department of Housing and Urban Development.

“IDED” means the Iowa department of economic development.

“IFA” means the Iowa finance authority.

“LIHTC” means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through the Iowa finance authority for affordable rental housing development.

“Local financial support” means financial investment by the recipient through the use of the recipient's own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the housing fund and that are used during the same time frame as the requested housing activity or project.

“Local support” means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the housing fund.

“Net proceeds” means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller's reasonable and customary closing costs associated with the resale.

“New construction rental units” means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.

“Program income” means funds generated by a recipient or subrecipient from the use of CDBG or HOME funds.

“Reasonable and customary closing costs” means:

1. Seller's reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller's county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

2. Buyer's reasonable and customary closing costs include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys' fees, appraisal fees, and required inspection fees. Ineligible costs un-

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der this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.

“Recaptured funds” means housing fund moneys which are recouped by the recipient when the housing unit assisted by the housing fund home ownership dollars does not continue to be the principal residence of the assisted homebuyer for the full affordability period required by federal statute.

“Recipient” means the entity under contract with IDED to receive housing funds and undertake the funded housing activity.

“Repayment” means housing fund moneys which the recipient must repay to IDED because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

“Single-family unit” means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

“Single parent” means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

“Technical services” means all services that are necessary for individual, scattered site activities including: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, and (4) construction supervision associated with activities that do not require an architect or engineer.

“Technical services provision” means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

261—25.3(15) Eligible applicants. Eligible applicants for housing fund assistance include all incorporated cities and counties within the state of Iowa; nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.

1. Any eligible applicant may apply directly.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

261—25.4(15) Eligible activities and forms of assistance.

25.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance, owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by IDED. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

- a. Assisted units shall be affordable.

(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly con-

structed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.

(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction’s applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

(4) For owner-occupied housing rehabilitation, the after rehabilitation value of the rehabilitated unit shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area.

b. Assisted households shall meet income limits established by federal program requirements.

(1) For rental activities, all assisted units shall be rented to households with incomes at or below 80 percent of the area’s median family income; at initial occupancy, 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area’s median family income and, for projects with five or more units, 20 percent of the units shall be rented initially to households with incomes at or below 50 percent of the area’s median family income.

(2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area’s median family income.

(3) For home ownership assistance and owner-occupied rehabilitation, only households with incomes at or below 80 percent of the area median family income shall be assisted.

c. In communities with populations of 15,000 or less, all single-family rehabilitation must be done in compliance with Iowa’s Minimum Housing Rehabilitation Standards (November 1999), and all applicable state and local codes, rehabilitation standards and ordinances, and shall, at a minimum, meet HUD Section 8 Housing Quality Standards, 24 CFR 882 (April 1, 1997). New units must be constructed pursuant to one of the standards specified at 24 CFR 92.251(a)(1) (April 1, 1997).

25.4(2) Eligible forms of IDED assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IDED.

25.4(3) For all single-family housing projects or activities assisting homeowners or homebuyers, the only form of housing fund assistance to the end beneficiary is a forgivable loan.

25.4(4) Special provisions for the American Dream Downpayment Initiative (ADDI). The purpose of the ADDI program is to provide down payment and closing cost or acquisition assistance for the purchase of a principal residence. This program is available only to low-income persons or households that are first-time homebuyers.

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a. Applicant eligibility. Units of local government and nonprofit organizations may apply for ADDI funds.

b. Beneficiary requirements. Only first-time homebuyers (as defined in rule 261—25.2(15)) purchasing a principal residence and meeting income eligibility criteria may be the beneficiaries of ADDI assistance.

c. Eligible uses of funds. Only the purchase of single-family, single-unit housing may be assisted by the ADDI program and only in the following manner:

(1) As a down payment plus reasonable and customary closing costs on the purchase of a principal residence.

(2) As gap financing for the cost of acquisition of a principal residence for an eligible homebuyer.

d. Limitations on amounts of ADDI assistance.

(1) The per unit assistance is \$10,000.

(2) The maximum ADDI award per applicant is \$200,000.

e. ADDI program requirements. In addition to the housing fund program requirements stated within this chapter, the ADDI program requires specific federal regulations to be followed in the implementation of this program activity. Grant recipients must:

(1) Conduct targeted outreach to public housing tenants and families receiving rental assistance from public housing agencies to encourage low- and moderate-income (LMI) households to move from renting to home ownership.

(2) Ensure long-term affordability of all assisted units.

(3) Document income eligibility determination for all assisted units.

(4) Document that all assisted properties meet the property standards at 24 CFR 92.251.

(5) Require that all housing units assisted with ADDI funds meet the HUD maximum per unit subsidy level.

(6) Meet all applicable cross-cutting federal regulations included in the HOME statute, including but not limited to: federal regulations pertaining to nondiscrimination, fair housing practices, minority outreach, lead-safe housing regulations in assisted units constructed prior to January 1, 1978, and the Uniform Relocation Act (URA).

f. ADDI is considered as a separate home ownership assistance activity. ADDI funds may be used as a stand-alone activity or utilized in conjunction with another housing fund eligible home ownership activity.

261—25.5(15) Application procedure. All potential housing fund applicants are encouraged, but not required, to complete and submit a HART form describing the proposed housing activity prior to the submittal of a formal housing fund application. If the proposal is determined to be appropriate for housing fund assistance, IDED shall inform the applicant of the appropriate application procedure by mail.

25.5(1) HART forms shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825; and at iowalifechanging.com/community.

25.5(2) HART forms are accepted year-round.

25.5(3) Applicants may request technical assistance from staff contacts in the preparation of housing fund applications.

a. If an applicant does not submit an application by the next application deadline, IDED will determine the proposal inactive and remove it from the HART files.

b. Upon the submission of a housing fund application, no additional staff assistance shall be provided during the review period.

25.5(4) Housing fund applications shall be reviewed through an annual competition. Once funds have been allo-

cated, IDED will not accept applications seeking funding for review until the next established deadline.

25.5(5) For applicants requesting funding for both the housing fund and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the Iowa finance authority (IFA). IFA will make available an application package to a potential applicant. The applicant must submit the completed application, with required housing fund attachments, to IFA by the deadline established in the application package.

a. IDED and IFA shall appoint a joint review team to discuss and review applications for housing fund and LIHTC funds. Staff for each agency may communicate frequently regarding common projects. Information contained in each application may be shared with each agency.

b. IDED staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan. Staff from each agency will make recommendations for funding to their respective decision makers. A decision by one agency does not bind the other agency to fund a project.

c. An applicant for the housing fund must meet the threshold requirements outlined in rules 25.4(15) and 25.6(15) and subrule 25.7(3) in order to be considered for an award under this subrule.

261—25.6(15) Minimum application requirements. To be considered for housing fund assistance, an application shall meet the following threshold criteria:

25.6(1) The application shall propose a housing activity consistent with the housing fund purpose and eligibility requirements, the state consolidated plan and any local housing plans.

25.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. Documentation of the availability of certified lead professionals and contractors trained or certified in safe work practices may also be required. IDED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDED.

25.6(3) The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity and the feasibility of the proposed activity.

25.6(4) The application shall demonstrate local support for the proposed activity.

25.6(5) The application shall show that a need for housing fund assistance exists after all other financial resources have been identified and secured for the proposed activity.

25.6(6) The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

25.6(7) An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDED HOME funds requested. Sources of local PJ funds include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds.

25.6(8) An application for a home ownership activity must indicate that recipients will require the beneficiaries of their home ownership assistance to use a principal mortgage loan product offered by one of the following: Iowa Finance

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Authority, USDA-Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Fannie Mae, or Freddie Mac. One of these entities will be the principal, and only, mortgage lender in terms of repayable loans in all individual home ownership assistance projects. Any of the named mortgage lending entity's principal mortgage loan products may be used, provided they meet the following minimum requirements: loan terms will minimally include a 90 percent loan-to-value ratio and will be no less than a 15-year, fully amortized, fixed-rate mortgage.

25.6(9) An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only.

261—25.7(15) Application review criteria. IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity. The activity criteria shall be a part of the application. A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

25.7(1) As applicable, the review criteria for home ownership assistance applications shall include the following:

- a. General criteria.
 1. Activity objectives.
 2. Total number of units.
 3. Activities and cost estimates.
 4. If new construction, availability of necessary infrastructure and utilities.
 5. Form(s) of assistance.
 6. Type(s) of assistance (e.g., mortgage buy-down, down payment, closing costs, rehabilitation, and combinations thereof).
 7. Median purchase price for single-family housing in the community.
 8. Initial purchase price or after rehabilitation value per assisted unit limitation.
 9. Mortgage lender participation documentation and the current underwriting standards.
 10. Methodology to determine maximum amount of conventional financing affordable to buyer.
 11. Selection criteria for participants and their access to the proposed activity.
 12. Methodology to ensure that the property will be the buyer's principal residence throughout the period of affordability.
 13. Assurance of compliance with HUD lead-safe housing regulations as applicable.
 14. Compliance with Iowa's Minimum Housing Rehabilitation Standards (November 1999) and, as applicable, local standards, codes, and ordinances.
 15. Activity time line.
 - b. Need, impact and feasibility criteria.
 1. Number and percentage of low- and moderate-income persons in the applicant community.
 2. Evidence and documentation of need for the activity.
 3. Percentage of need to be met through the activity.
 4. Reasons mortgage applications have been denied by local lenders.
 5. Housing costs, housing supply, condition of available housing, and vacancy rates.
 6. If acquisition for new construction, documentation of need for new units.
 7. Recent or current housing improvement activities.
 8. Description of current and ongoing comprehensive community development efforts.

9. Publicity promoting the proposed activity and identification of local partners.

10. Number of potential participants and the method by which they were identified.

11. New businesses or industrial growth in the past five years.

12. Local involvement and financial support.

c. Administrative criteria.

1. Plan for activity administration.

2. Previous activity administrative experience.

3. Budget for general administration.

4. Recapture or resale provisions, terms, and enforcement procedures.

5. Prior funding received and performance targets completed.

25.7(2) As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:

- a. General criteria.
 1. Activity objectives.
 2. Area of benefit and reason for selection.
 3. Condition of infrastructure in the activity area served.
 4. Form of assistance to homeowners.
 5. Selection criteria for participants.
 6. Method to determine that the property is the homeowner's principal residence.
 7. Compliance with Iowa's Minimum Housing Rehabilitation Standards (November 1999).
 8. Assurance of compliance with HUD lead-safe housing regulations.
 9. Plans for properties infeasible to rehabilitate.
 10. Activity time line.
 - b. Need, impact and feasibility criteria.
 1. Evidence of need for the activity.
 2. Percentage of need to be met through the activity.
 3. Number and percentage of low- and moderate-income persons in the community.
 4. Housing costs, housing supply, condition of housing, vacancy rate of owner-occupied units in the activity area served.
 5. Other recent or current housing improvement activities in the activity area served or community served.
 6. Ongoing comprehensive community development efforts in the activity area served.
 7. New businesses or industries in the past five years in the community.
 8. Local involvement and financial support.
 - c. Administrative criteria.
 1. Plan for activity administration.
 2. Previous activity management experience.
 3. Budget for administration.
 4. List of prior CDBG or HOME funding.
 5. If application is for a continuation of a prior activity, list of performance targets completed.
- 25.7(3)** As applicable, the review criteria for rental housing assistance applications shall include the following:
- a. General criteria.
 1. Activity objectives.
 2. Total number of units and number of assisted units.
 3. Activities and cost estimates.
 4. Eligibility criteria for renters of assisted units (income, age, disability, other).
 5. Rationale for activity location.
 6. Availability and condition of infrastructure; availability of utilities.
 7. Zoning compliance.

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8. Environmental issues.
 9. Potential tenant displacement including estimated Uniform Relocation Act (URA) costs.
 10. Accessibility.
 11. Assurance of compliance with HUD lead-safe housing regulations.
 12. Activity time line.
 - b. Need, impact and feasibility criteria.
 1. Evidence of need for the activity.
 2. Percentage of need to be met through this activity.
 3. Number and percentage of low- and moderate-income persons in the community.
 4. Housing costs, housing supply, condition of available housing, rental vacancy rate in the community.
 5. If new construction, documentation of need for new construction.
 6. Other recent or current housing improvement activities in the activity area served or community served.
 7. Ongoing comprehensive community development efforts in the activity area served or community served.
 8. New businesses or industries in the past five years in the community.
 9. Local involvement and financial support.
 10. Opposition to the activity and plans to alleviate concerns.
 11. Financial contribution to the activity from other sources (including all underwriting criteria).
 12. Reason for "gap" in activity financing; justification for housing fund request amount.
 - c. Administrative criteria.
 1. Plan for activity administration and property management.
 2. Previous administrative experience.
 3. Plan to ensure long-term affordability.
 4. Plan for annual certification of tenant eligibility and compliance with Section 8 Housing Quality Standards and any ongoing maintenance to ensure long-term lead-safe housing.
 5. Previous CDBG- or HOME-funded housing activities and current status.
 6. Applicant's other rental housing activities and addresses.
- 25.7(4)** As applicable, the review criteria for tenant-based rental assistance applications shall include the following:
- a. General criteria.
 1. Activity objectives.
 2. Rationale for amount of assistance per beneficiary.
 3. Selection criteria for participants.
 4. Form of assistance.
 5. Use of assistance (rental and security deposits, rent assistance).
 6. Length of time of assistance.
 7. Portability of rental assistance.
 8. Rent calculation.
 - b. Need, impact and feasibility criteria.
 1. Number and percentage of low- and moderate-income persons in the applicant community.
 2. Percentage of income that potential beneficiaries currently pay for rent.
 3. Area rental housing costs by unit based on number of bedrooms.
 4. Availability of affordable rental housing.
 5. Public housing authority waiting list.
 6. Documentation of other indicators of need for tenant-based rental assistance (TBRA).
 7. Percentage of need to be met through this activity.

8. Alternatives to the proposed activity that were considered.
9. Coordination of this activity with other housing assistance.
10. Other providers of TBRA in the community.
11. Description of efforts to obtain additional funding from other sources for TBRA.
12. Evidence of local involvement and financial support.
13. Opposition to activity and method to address it.
14. Economic indicators in community (unemployment rate, increase/decrease opportunity).
15. Activity time line.
16. Overall vacancy rate of rental units in the community.
 - c. Administrative criteria.
 1. Plans for administering the activity.
 2. Description of previous administrative experience.
 3. Budget for administration.
 4. Plan for annual certification of tenant eligibility and compliance with Section 8 HQS.
 5. Prior CDBG or HOME housing grants.
 6. Prior activities funded and performance targets completed.

25.7(5) IDED staff may conduct site evaluations of proposed activities.

261—25.8(15) Allocation of funds.

25.8(1) IDED may retain a portion of the amount provided for at rule 261—23.4(15) of the state's annual CDBG allocation from HUD and up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

25.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

25.8(3) Up to a maximum of 60 percent of the state's annual HOME allocation may be reserved for rental housing activities jointly funded with HOME and low-income housing tax credits.

25.8(4) IDED will determine the appropriate source of funding, either CDBG or HOME, for each housing fund award based on the availability of funds, the nature of the housing activity and the recipient type.

25.8(5) IDED reserves the right to limit the amount of funds that shall be awarded for any single activity type.

25.8(6) Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or homebuyers. Awards shall be limited to no more than \$800,000 for all multifamily rental activities.

25.8(7) The maximum per unit housing fund subsidy for all single-family activities is \$24,999. Additional funds in excess of the \$24,999 per unit limitation may be used to pay technical services costs, lead hazard reduction costs, lead hazard reduction carrying costs, and temporary relocation costs as necessary or applicable.

25.8(8) The maximum per unit housing fund subsidy for all multifamily activities is \$50,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units. The \$50,000 per unit multifamily limit includes all applicable costs including, but not limited to: hard costs of construction or rehabilitation; architectural or technical services costs; lead hazard reduction, lead hazard reduction or abatement costs; and temporary relocation.

25.8(9) Recipients shall justify administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration and technical services, but in no case shall the amount for

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

general administration exceed 10 percent of a total housing fund award.

25.8(10) IDED reserves the right to negotiate the amount and terms of a housing fund award.

25.8(11) IDED reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

261—25.9(15) Administration of awards. Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

25.9(1) A preaudit survey will be required for all for-profit and nonprofit direct recipients for grants that exceed \$150,000.

25.9(2) A contract shall be executed between the recipient and IDED. These rules, the approved housing fund application, the housing fund management guide and all applicable federal and state laws and regulations shall be part of the contract.

a. The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

b. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

c. Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

d. Release of funds shall be conditioned upon IDED's receipt of an administrative plan for the funded activity.

e. Release of funds shall be conditioned upon IDED's receipt and approval of documentation of environmental clearance.

25.9(3) Local administrative and technical services contracts.

a. Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

c. Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

25.9(4) Subrecipient agreements. Recipients of the IDED housing fund shall not be allowed to enter into any type of subrecipient agreement that transfers all or a part of the recipient's financial responsibility or accountability under the housing fund award to a third party.

25.9(5) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds.

25.9(6) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the housing fund activity for five years after contract expiration. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

25.9(7) Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

25.9(8) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

25.9(9) Contract closeout. Upon the contract expiration date or work completion date, as applicable, IDED shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

25.9(10) Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

25.9(11) Remedies for noncompliance. At any time, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

25.9(12) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDED staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IDED. Appeals should be addressed to the division administrator of the division of community and rural development. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director will make the final decision on all appeals.

These rules are intended to implement Iowa Code section 15.108(1)"a."

ARC 5335B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 104, “Iowa Wine and Beer Promotion Grant Program,” Iowa Administrative Code.

The proposed amendment would allow an eligible group to apply for and receive up to two awards per fiscal year. The current rule limits participation to one award per group per fiscal year.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on September 19, 2006. Interested persons may submit written or oral comments by contacting LuAnn Reinders, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; (515)242-4732.

A public hearing to receive comments about the proposed amendment will be held on September 19, 2006, at 1:30 p.m. at the above address in the first floor Tourism Conference Room. Individuals interested in providing comments at the hearing should contact LuAnn Reinders by 4 p.m. on September 18, 2006, to be placed on the hearing agenda.

This amendment is intended to implement Iowa Code section 15E.117.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 104.3(1) as follows:

104.3(1) Eligible applicants. To qualify for funding, applicants must include a group of at least three native Iowa wineries or breweries, unless there are fewer than three licensees in either category. If there are fewer than three licensees in a category, then all of the licensees in that category must be included in the event. There shall be a maximum of ~~one~~ *two awards* per group per fiscal year.

ARC 5343B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments provide a more accurate description of the authority of a licensee to teach two grades above or two grades below the current range of grade levels in the licensee’s endorsement area.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 20, 2006, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 22, 2006. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 282—14.106(272) as follows:

282—14.106(272) Adding endorsements to licenses. After the issuance of a teaching, administrative, or school service personnel license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement, as listed in 282—14.140(272) and 282—14.141(272), have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

In addition to the requirements listed in 282—14.140(272) and 282—14.141(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

Practitioners holding the K-6 K-8 endorsement in the content area of the 7-12 5-12 endorsement being added may satisfy the requirement for a teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the conditional license. The practitioner must obtain a two-year conditional license while practicing with the 7-12 5-12 endorsement.

14.106(1) No change.

14.106(2) No change.

ITEM 2. Amend subrule 14.140(5) as follows:

14.140(5) Elementary counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a school guidance counselor in kindergarten and grades one through six *eight*.

b. and c. No change.

ITEM 3. Amend subrule 14.140(6) as follows:

14.140(6) Secondary counselor.

a. Authorization. The holder of this endorsement is authorized to serve as a school guidance counselor in grades seven *five* through twelve.

b. and c. No change.

ITEM 4. Amend subrule 14.140(8) as follows:

14.140(8) Elementary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one through six *eight*.

b. No change.

ITEM 5. Amend subrule 14.140(9) as follows:

14.140(9) Secondary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in grades seven *five* through twelve.

b. No change.

ITEM 6. Amend rule 282—14.141(272) as follows:

Amend the introductory paragraph as follows:

282—14.141(272) Minimum content requirements for teaching endorsements. The holder of any K-6 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 7-8 grade levels, and the holder of any 7-12 instructional endorsement set out herein may be assigned by local school board action to teach that instructional area at the 5-6 grade levels.

Strike “K-6” and insert “K-8” wherever it appears.

Strike “7-12” and insert “5-12” wherever it appears.

ARC 5344B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 20, “Evaluator Endorsement and License,” Iowa Administrative Code.

The proposed amendment will provide an extension of the administrative license to administrators who will need to renew their licenses before the new evaluator renewal training course is available in the fall of 2007.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 20, 2006, at 1:30 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, September 22, 2006. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 282—20.57(272) as follows:

282—20.57(272) Renewal of administrative licenses.

20.57(1) Each applicant for renewal of an administrative license shall have completed the evaluator endorsement requirements. A waiver of this requirement may apply if a person submits appropriate documentation of any of the following:

1 a. A person is engaged in active duty in the military service of this state or of the United States.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

2 b. A person is practicing a licensed profession outside this state.

3 c. A person is practicing as a nonpublic school administrator in this state.

4 d. A person is practicing in a nonadministrative, non-evaluative position in this state.

20.57(2) Extension of an administrative license:

a. Will be granted to an applicant who has not completed the new evaluator renewal training course before the expiration date on the applicant's license; and

b. Will be granted for a one-year period for a fee of \$25; and

c. Will not be issued, pursuant to this subrule, on or after July 1, 2008.

ARC 5332B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” and Chapter 46, “Overpayment Recovery,” Iowa Administrative Code.

These amendments affect policy for the Family Investment Program (FIP) as follows:

1. Change the method of determining the FIP monthly grant amount from retrospective budgeting (setting the next month's grant according to the past month's income) to prospective budgeting (setting the amount based on anticipated income). Changing from retrospective to prospective budgeting will align the FIP budgeting method with the method used by the Food Assistance and the Family Medical Assistance Program (FMAP)-related Medicaid programs. This change will improve administrative efficiency and eliminate confusion for participants. Eligibility and benefits will be determined based on the best estimate of income that the household expects to receive.

2. Remove references to suspension of benefits. Under retrospective budgeting, receipt of a third or fifth paycheck in a month caused participants to be ineligible for benefits for one month and, benefits were suspended for that month. With prospective budgeting, suspension policies will no longer apply. Eligibility and benefits will be based on the income that can be projected for the month.

3. Eliminate monthly reporting requirements and implement a quarterly reporting requirement. Changing from monthly to quarterly reporting will improve accuracy, reduce customer confusion, provide more financial stability for participants and improve administrative efficiency by eliminating unnecessary paperwork. Information provided with the quarterly report will be used to project income and determine eligibility and benefits for the next three months.

4. Revise the list of changes that participants are required to report. Revising the list of changes participants are required to report will make it easier for participants to un-

derstand what information must be reported and will allow the Department to focus on obtaining the information that is necessary to correctly determine eligibility and benefits.

5. Specify that recoupment will not apply when a change in income is timely reported and timely acted upon by the local office, but the Department's timely notice requirements delay the action until the second calendar month following the month of change and eligibility for FIP continues. This change will prevent imposition of small overpayments incurred through no fault of the participant or the worker and will align policies between the Food Assistance, FMAP-related Medicaid, and FIP programs. The Department will continue to recoup any excess benefits issued when a participant fails to timely report a change in circumstances or when a change makes a case or a person ineligible for FIP but the Department's timely notice requirements delay the action.

6. Change the period of ineligibility caused by receipt of a nonrecurring lump sum to align with FMAP-related Medicaid policy. Aligning the policies will encourage timely reporting of receipt of a nonrecurring lump sum, reduce confusion for participants, and improve administrative efficiency. The period of ineligibility will begin with the month when the nonrecurring lump sum is received. If the lump sum is timely reported, but timely notice provisions prevent applying it to one or both of the first two months of the period of ineligibility, no recoupment will be made for those months. If the lump sum is not timely reported, recoupment will be made.

7. Implement a combined Public Assistance Eligibility Report/Food Assistance Interim Report to be issued in months when both are required. A combined Public Assistance Eligibility Report/Food Assistance Interim Report will eliminate unnecessary paperwork, thus reducing costs, avoiding confusion for participants, and improving administrative efficiency.

8. Allow substitution of a telephone interview for a face-to-face interview at the time of reapplication or review, as appropriate. Allowing income maintenance workers the flexibility to do some FIP interviews by telephone will promote efficiency for workers while removing a barrier for families who have difficulty attending a face-to-face interview. A family may have difficulty attending a face-to-face interview because of work or school schedules, lack of transportation, lack of child care, health problems, or other issues.

9. Clarify that when a participant fails to comply with PROMISE JOBS activities offered to overcome a known barrier to self-sufficiency, that barrier will not be considered to meet the hardship criteria for receipt of FIP beyond 60 months. When a participant is offered PROMISE JOBS activities to overcome a known barrier to self-sufficiency and fails to comply, the participant will not meet hardship criteria to receive FIP beyond 60 months based on that specific barrier. This rule is amended to clarify current policy.

10. Remove references to intentional program violation. Intentional program violation rules are being rescinded to align with current policy.

11. Clarify the rule regarding the requirement to attest to citizenship or alien status to state more clearly the existing requirements. This is not a change in the requirements.

12. Clarify existing policy for projecting income prospectively when a third or fifth paycheck is received in a month.

13. Update definitions and remove outdated definitions. The change to prospective budgeting and quarterly reporting will change the meaning of some terms or make some terms unnecessary.

14. Correct a form number and an Iowa Rule of Civil Procedure citation.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specific situations because these changes confer a benefit to recipients. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 20, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 17A and Iowa Code sections 239B.2, 239B.2B, 239B.3, 239B.5, 239B.6, and 239B.18.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraphs **7.7(2)“k”** and **“l”** as follows:

k. The agency terminates, *or reduces, or suspends* benefits or makes changes based on *one of the following completed forms as described at 441—paragraph 40.27(1)“b”*:

(1) Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, *or*.

(2) Form 470-4387, 470-4387(M), or 470-4387(S), *Combined PAER/FAIR*.

(3) Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, *as described at 441—paragraph 40.27(1)“b.”*

l. The agency terminates benefits for failure to return a completed ~~monthly~~ *quarterly* report form, as described in paragraph “k.”

ITEM 2. Amend paragraph **7.9(1)“b”** by adding the following ~~new~~ subparagraph (4):

(4) Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).

ITEM 3. Amend paragraph **7.13(5)“d”** as follows:

d. “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure 236 1.977.

ITEM 4. Amend rule **441—40.21(239B)** by rescinding the definitions of “budgeting process,” “budget month,” “report month,” “retrospective budgeting,” and “suspension.”

ITEM 5. Amend paragraph **40.22(5)“c”** as follows:

c. When eligibility factors are met, assistance shall be reinstated when a ~~completed Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S), or a Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), one of the following completed forms~~ is received by the *county local* office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.:

(1) *Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S).*

(2) *Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).*

(3) *Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M).*

ITEM 6. Amend subrules 40.24(1), 40.24(2), and 40.24(3) as follows:

40.24(1) The decision with respect to eligibility shall be based primarily on information furnished by the applicant.

a. The applicant shall report no later than at the time of the ~~face-to-face~~ interview any change as defined at 40.27(4)“e” ~~which that~~ occurs after the application was signed. Any change ~~which that~~ occurs after the ~~face-to-face~~ interview shall be reported by the applicant within five days from the date the change occurred.

b. The ~~county~~ *local* office shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification, or refusal by the applicant to authorize the ~~county~~ *local* office to secure the information or verification from other sources, shall serve as a basis for denial of assistance.

(1) Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. The ~~county~~ *local* office shall extend the deadline when the applicant requests an extension because the applicant is making every effort to supply the information or verification but is unable to do so.

(2) “Supply” shall mean the requested information is received by the department by the specified due date. Any time taken beyond the required time frame shall be considered a delay on the part of the applicant.

a c. When an individual is added to an existing eligible group, the five-day requirement for reporting changes shall be waived. These individuals and eligible groups shall be subject to the recipient's ten-day reporting requirement as defined in 40.27(4).

b. ~~Reserved.~~

40.24(2) In processing an application, the ~~county~~ *local* office or the designated worker as described in rule 441—40.23(239B) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one ~~face-to-face~~ interview with the applicant ~~prior to before~~ approval of the application for assistance.

a. The worker shall assist the applicant, when requested, in providing information needed to determine eligibility and the amount of assistance.

b. The application process shall include a visit, or visits, to the home of the child and the person with whom the child will live during the time assistance is granted under the following circumstances:

a. (1) When it is the judgment of the worker or the supervisor that a home visit is required to clarify or verify information pertaining to the eligibility requirements; or

b. (2) When the applicant requests a home visit for the purpose of completing a pending application.

c. When adding an individual to an existing eligible group, the ~~face-to-face~~ interview requirement may be waived.

40.24(3) The applicant who is subject to ~~monthly~~ *quarterly* reporting as described in 40.27(1) shall become responsible for completing Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, *or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR*, after the time of the ~~face-to-face~~ interview. ~~This~~ *The* report form shall be issued and returned according to the requirements in 40.27(4)“b.”

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. ~~The application process shall continue as it regards Eligibility and benefits for the initial two months of eligibility, but eligibility application shall be determined without regard to the return of a report form.~~

b. Eligibility and the amount of payment for the third month and those following are dependent on the proper return of ~~these~~ *the* report forms.

c. The ~~county~~ *local* office shall explain to the applicant at the time of the face-to-face interview the applicant's responsibility to complete and return ~~this~~ *the* report form.

ITEM 7. Strike the term "county office" and insert in lieu thereof the term "local office" wherever the term appears in subrule **40.24(4)**, rule **441—40.25(239B)**, and paragraph **40.27(4)“c.”**

ITEM 8. Amend rule **441—40.27(239)** as follows:

Amend subrule 40.27(1) as follows:

Amend the introductory paragraph as follows:

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-0454, 470-0455 or 470-3719(S), Public Assistance Eligibility Report, *or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).* ~~A face-to-face~~ *An* interview shall be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document. When the client has completed a Health and Financial Support Application, Form 470-0462 or 470-0466 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.

Amend paragraph “a” as follows:

a. Any assistance unit ~~with one or more of the following characteristics that contains a member with earned income shall report monthly; quarterly, unless the only earned income is either exempt or is from annualized self-employment.~~

Rescind and reserve subparagraphs (1) through (3) and (5).

Amend paragraph “b” as follows:

b. The assistance unit subject to ~~monthly~~ *quarterly* reporting shall complete a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S), *or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S),* for each ~~budget month~~ *quarter*, unless the assistance unit is required to complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, for that month. ~~The Public Assistance Eligibility Report shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf shall sign the Public Assistance Eligibility Report.~~ When both parents or a parent and a stepparent are in the home, both shall sign the form.

Amend subrule 40.27(3), introductory paragraph and paragraph “b,” as follows:

40.27(3) Information for semiannual reviews shall be submitted on Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, *or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR.* Information for the annual face-to-face determination interview shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertifica-

tion Eligibility Document. When the client has completed Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the *quarterly report or as the* review document for the semiannual or annual review.

b. When both parents, or a parent and a stepparent, are in the home, both shall sign the Public Assistance Eligibility Report, *the Combined PAER/FAIR,* the Review/Recertification Eligibility Document, or the Health and Financial Support Application.

Amend subrule 40.27(4), introductory paragraph and paragraph “b,” as follows:

40.27(4) Responsibilities of recipients (~~including individuals in suspension status~~). For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

b. The recipient shall complete Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, *or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR,* or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, when requested by the ~~county~~ *local* office in accordance with these rules. The form shall be supplied as needed to the recipient by the department. The department shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the ~~county~~ *local* office by the fifth calendar day of the ~~report~~ *following* month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the ~~county~~ *local* office by the seventh day of the month after the date it is mailed by the department.

(2) The ~~county~~ *local* office shall supply the recipient with Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, *or Form 470-4387, 470-4387(M), 470-4387(S), Combined PAER/FAIR,* or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.

(3) Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated ~~no earlier than the last day of the budget month~~ and accompanied by verification as required in 441—paragraphs 41.27(1)“i” and 41.27(2)“q.”

Amend subrule **40.27(4)** by rescinding paragraphs “e” and “f” and inserting the following new paragraphs in lieu thereof:

e. The recipient, or an individual being added to the existing eligible group, shall timely report any change in the following circumstances:

(1) Beginning or ending income, including receipt of a nonrecurring lump sum.

(2) Resources.

(3) Members of the household.

(4) School attendance of a child.

(5) Mailing or living address.

(6) Receipt of a social security number.

f. A report shall be considered timely when made within ten days from:

(1) The receipt of resources or income or the date income ended.

(2) The date the address changes.

(3) The date the child is officially dropped from the school rolls.

(4) The date a person enters or leaves the household.

(5) The receipt of a social security number.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rescind subrule 40.27(5) and insert the following **new** subrule in lieu thereof:

40.27(5) After assistance has been approved, eligibility for continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility or benefits reported during a month shall be effective the first day of the next calendar month except as follows:

a. When the recipient reports a new person to be added to the eligible group, and that person meets eligibility requirements, a payment adjustment shall be made for the month of report, subject to the effective date of grant limitations prescribed in 441—40.26(239B).

b. When cancellation of assistance occurs later because issuance of a timely notice, as required by 441—7.7(17A), requires that the action be delayed until the first day of the second calendar month, any overpayment received in the first calendar month shall be recouped.

c. When the recipient reports a change in income or circumstances timely, as defined in 40.24(1) or 40.27(4), the department shall determine prospective eligibility and the grant amount for the following month based on the change.

(1) A payment adjustment shall be made when indicated.

(2) Recoupment shall be made for any overpayment, with one exception. When a change in income is timely reported by a recipient and timely acted upon by the local office, but the timely notice, as required by 441—7.7(17A), requires the action be delayed until the second calendar month following the month of change, and eligibility continues, recoupment shall not be made.

d. When an individual included in the eligible group becomes ineligible, that individual's needs shall be removed prospectively effective the first day of the next calendar month. When the action must be delayed due to administrative requirements, a payment adjustment or recoupment shall be made when appropriate.

e. When a sanction under 441—paragraph 41.22(6)“f” is implemented, the change shall be effective:

(1) The first day of the next calendar month after the change has occurred when the income maintenance unit determines noncooperation; or

(2) After the income maintenance unit receives notification from the child support recovery unit when the child support recovery unit determines noncooperation.

f. When a sanction under 441—paragraph 41.22(6)“f” is removed, the change shall be effective the first day of the next calendar month after the recipient has expressed willingness to cooperate, as described in 441—paragraph 41.22(6)“f.” However, action to remove the sanction shall be delayed until:

(1) Cooperation has actually occurred; or

(2) The income maintenance unit has received notification from the child support recovery unit that the client has cooperated.

g. A different effective date shall be applied when specifically indicated in family investment program rules, such as in 441—subrule 41.25(5) and 441—subparagraph 41.27(9)“c”(2).

ITEM 9. Amend rule 441—40.28(239B) as follows:

441—40.28(239B) Referral for investigation. The local office may refer questionable cases to the department of inspections and appeals for further investigation. Referrals shall be made using Form 427-0328 470-2998, Referral for Front End Investigation.

This rule is intended to implement Iowa Code section 239B.5.

ITEM 10. Amend rule **441—41.22(239B)** as follows:

Amend paragraph **41.22(6)“f”** as follows:

f. Failure to cooperate shall result in a sanction to the family. The sanction shall be a deduction of 25 percent from the net cash assistance grant amount payable to the family ~~prior to~~ before any deduction for recoupment of a prior overpayment.

(1) When the income maintenance unit determines noncooperation, the sanction shall be implemented after the noncooperation has occurred. The sanction shall remain in effect until the client has expressed willingness to cooperate. However, any action to remove the sanction shall be delayed until cooperation has occurred.

(2) When the child support recovery unit (CSRU) makes the determination, the sanction shall be implemented upon notification from CSRU to the income maintenance unit that the client has failed to cooperate. The sanction shall remain in effect until the client has expressed to either income maintenance or CSRU staff willingness to cooperate. However, any action to remove the sanction shall be delayed until income maintenance is notified by CSRU that the client has cooperated. ~~When the family is also subject to sanction under paragraph 41.25(8)“g,” the sanction for failure to cooperate in obtaining support shall be calculated as though the sanction at paragraph 41.25(8)“g” does not exist.~~

Rescind and reserve paragraph **41.22(7)“a.”**

ITEM 11. Amend rule 441—41.23(239B) as follows:

Amend paragraph **41.23(5)“b”** as follows:

b. As a condition of eligibility each ~~recipient applicant~~ shall complete and sign Form 470-2549, *Statement of Citizenship Status*, attesting ~~attest~~ to the recipient's ~~applicant's~~ citizenship or alien status, ~~when the statement has not previously been signed on the application by signing Form 470-0462 or 470-0466, Health and Financial Support Application, or Form 470-2549, Statement of Citizenship Status.~~

(1) ~~The form shall be signed by the recipient, applicant or, when the recipient applicant is incompetent or incapacitated, someone acting responsibly on the recipient's applicant's behalf shall sign the form.~~ When both parents are in the home, both shall sign ~~the a~~ form attesting to their citizenship.

(2) An adult ~~recipient~~ shall sign the form for dependent children. *Form 470-2881, Review/Recertification Eligibility Document, may be used to attest to the citizenship of dependent children who enter a recipient household.*

(3) ~~Failure to sign Form 470-2549 a form attesting to citizenship when required to do so creates ineligibility for the entire eligibility group.~~

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 239B.2 and 2002 Iowa Acts, House File 2623, section 27 239B.2B.

ITEM 12. Amend rule **441—41.27(239B)** as follows:

Rescind and reserve paragraphs **41.27(7)“q,” “r,” “t,”** and **“ag.”**

Amend paragraph **41.27(7)“z”** as follows:

z. ~~Retrospective income~~ *Income* attributed to an unmarried, underage parent in accordance with 41.27(8)“c” effective the first day of the month following the month in which the unmarried, underage parent turns age 18 or reaches majority through marriage. When the unmarried, underage parent turns age 18 on the first day of a month, the ~~retrospective~~ income of the self-supporting parent(s) becomes exempt as of the first day of that month.

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Amend subparagraph **41.27(8)“b”(8)** as follows:

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month ~~received , and counted in computing eligibility and the amount of the grant for the payment month.~~ Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

Amend subrule 41.27(9) as follows:

41.27(9) Budgeting process. *Both initial and ongoing eligibility and benefits shall be determined using a projection of income based on the best estimate of future income.*

a. Initial eligibility.

(1) At time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for the family investment program, except income which is exempt. *All countable earned and unearned income received by the eligible group during the 30 days before the interview shall be used to project future income. If the applicant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.*

When income is prorated in accordance with 41.27(9)“c”(1) and 41.27(9)“i,” the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185 percent test defined in 41.27(239B). The determination of eligibility in the month of decision is a three-step process as described in 41.27(239B).

(2) No change.

(3) No change.

(4) Eligibility for the family investment program for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of decision, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. ~~When the eligibility determination is delayed until the third initial month or later and payment is being made for the preceding months, the payment for the month following the initial two months shall be based, retrospectively, on income and all circumstances except family composition in the corresponding budget month.~~ When the applicant is eligible for some, but not all, months of the application period due to the time limit described at subrule 41.30(1), family investment program eligibility shall be determined for the month of decision first, then the immediately preceding month, and so on until the time limit has been reached.

(5) ~~The amount of the assistance grant for the initial two months of eligibility shall be computed prospectively with two exceptions. Income shall be considered retrospectively for the first two payment months which follow a month of suspension, unless there has been a change in the family's circumstances. Also, income for the first and second months of eligibility shall be considered retrospectively when the applicant was a recipient for the two immediately preceding payment months, including months for which payment was not received due to the restriction defined in 441—45.26(239B) and 441—45.27(239B).~~

~~(6) Income considered for prospective budgeting shall be the best estimate, based on knowledge of current and past circumstances and reasonable expectations of future circumstances.~~

(7) No change.

b. Ongoing eligibility.

(1) ~~After the initial two payment months, the amount of each grant shall be based, retrospectively, on income and other circumstances in the budget month. However, when the income was considered prospectively in the initial application and is not expected to continue, it shall not be considered again. This includes an eligible group not receiving a payment due to the restriction defined in 441—45.26(239B) and 441—45.27(239B). The local office shall prospectively compute eligibility and benefits when a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S); a Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S); or a Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083(Spanish), or 470-4083(M), is completed as described in 441—40.27(239B). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.~~

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility and benefits based on the change, effective no later than the month following the month the change occurred. ~~If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the 185 percent eligibility test, defined in 41.27(239B), shall be computed prospectively and retrospectively.~~

~~(3) Income considered for retrospective budgeting shall be the actual income received in the budget month, except for the income described in 41.27(9)“c”(1) and 41.27(9)“i.” A payroll check will be considered received the date the employer distributes payroll checks to employees.~~

(4) No change.

c. Lump-sum income.

(1) ~~Lump Recurring lump-sum income other than nonrecurring.~~ Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be considered as income in the budget month received. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be considered as income in the budget month received, except periodic or intermittent income from self-employment shall be treated as described in 41.27(9)“i.” When the income that is subject to proration is earned, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income that is subject to proration is prorated when a lump sum is received before the month of decision and is anticipated to recur; or a lump sum is received during the month of decision or at any time during the receipt of assistance.

(2) Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 41.26(4), 41.26(7), 41.27(8)“b,” and 41.27(8)“c,” shall be treated in accordance with this rule. Nonrecurring lump-sum income shall be considered as income in the budget month *received* and counted in computing eligibility and the amount of the grant for the payment month, unless the income is exempt. Nonrecurring lump-sum unearned income is defined

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as a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. When countable income, exclusive of the family investment program grant but including countable lump-sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. In addition, the eligible group shall be ineligible for the number of full months derived by dividing the income by the standard of need for the eligible group. Any income remaining after this calculation shall be applied as income to the first month following the period of ineligibility and disregarded as income thereafter. *The period of ineligibility shall begin with the month the lump sum is received.*

When a nonrecurring lump sum is timely reported as required by 441—paragraph 40.27(4)“f,” recoupment shall not be made for the month of receipt. When a nonrecurring lump sum is timely reported, but the timely notice as required by rule 441—7.7(17A) requires the action be delayed until the second calendar month following the month of change, recoupment shall not be made for the first calendar month following the month of change. When a nonrecurring lump sum is not timely reported, recoupment shall be made beginning with the month of receipt.

The period of ineligibility shall be shortened when the schedule of living costs as defined in 41.28(2) increases.

The period of ineligibility shall be shortened by the amount ~~which that~~ is no longer available to the eligible group due to a loss, or a theft or because the person controlling the lump sum no longer resides with the eligible group ~~and the lump sum is no longer available to the eligible group.~~

The period of ineligibility shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82 and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 41.26(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified. A dependent is an individual who is claimed or could be claimed by another individual as a dependent for federal income tax purposes.

When countable income, including the lump-sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the budget month *received*. For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals not in the eligible group when the lump-sum income was received may be eligible for *the* family investment program as a separate eligible group. Income of this eligible group plus income, excluding the lump-sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

d. No change.

e. In any month for which an individual is determined eligible to be added to a currently active family investment program case, the individual's needs shall be included subject to

the effective date of grant limitations as prescribed in 441—40.26(239B).

(1) When adding an individual to an existing eligible group, any income of that individual shall be considered prospectively for the initial two months of that individual's eligibility and retrospectively for subsequent months. ~~Any income considered in prospective budgeting shall be considered in retrospective budgeting only when the income is expected to continue.~~

(2) The needs of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month.

f. ~~Suspension. The local office shall suspend assistance retrospectively when income or circumstances in the budget month cause ineligibility and the local office has knowledge or reason to believe that ineligibility will exist for only one month. During the month of suspension, individuals not in the eligible group prior to suspension may be eligible for the family investment program as a separate eligible group. Income of this eligible group plus income of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant. The income of an ineligible parent or other legally responsible person shall be considered prospectively in accordance with 41.27(4) and 41.27(8).~~

g. *When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the period being used and dividing the result by the number of instances of income received in that period. The result shall be multiplied by four if the income is received weekly or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.*

h. No change.

i. No change.

j. Special needs.

(1) to (4) No change.

(5) ~~Any documentation of a special need received during a month of suspension shall be considered in determining eligibility and the amount of payment for the month following the month of suspension.~~

k. No change.

ITEM 13. Amend paragraph **41.30(3)“b”** by adding the following **new** subparagraph (3):

(3) Barriers to economic self-sufficiency that were known and existing before the family reached the 60-month limit shall not be considered as meeting eligibility criteria for hardship unless the individual complied with PROMISE JOBS activities offered to overcome that specific barrier.

ITEM 14. Amend rule **441—46.21(239B)** as follows:

Amend the definitions of “client error” and “procedural error” as follows:

“Client error” means and may result from:

1. False or misleading statements, oral or written, regarding the client's income, resources, or other circumstances which may affect eligibility or the amount of assistance received;

2. Failure to timely report changes in income, resources, or other circumstances ~~which may affect eligibility or the amount of assistance received; as required by 441—40.27(239B); or~~

~~Failure to timely report the receipt of and, if applicable, to refund assistance in excess of the amount shown on the most recent Notice of Decision, Form 470-0485(C) or 470-0486(M), or the receipt of a duplicate grant; or~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made.

"Procedural error" means a technical error that does not in and of itself result in an overpayment. Procedural errors include:

1. Failure to secure a properly signed application at the time of initial application or reapplication.

2. Failure to secure a properly signed Form 470-3826, Request for FIP Beyond 60 Months, as described at 441—subrule 41.30(3).

3. Failure of the ~~county~~ local office to conduct the ~~face-to-face~~ interviews described in 441—subrules 40.24(2) and 40.27(1).

4. Failure to request a Public Assistance Eligibility Report, a *Combined PAER/FAIR*, or a Review/Recertification Eligibility Document at the time of a ~~monthly~~ quarterly, semiannual, or annual review.

5. Failure of ~~county~~ local office staff to cancel the family investment program *benefits* when the client submits a Public Assistance Eligibility Report, a *Combined PAER/FAIR*, or a Review/Recertification Eligibility Document ~~which that~~ is not complete as defined in 441—paragraph 40.27(4)"b." However, overpayments of grants as defined above based on incomplete reports are subject to recoupment.

Rescind the definition of "intentional program violation."

ITEM 15. Amend subrule 46.24(1) as follows:

46.24(1) Agency error. When an overpayment is due to an agency error, recoupment shall be made, including those instances when errors by the department prevent the requirements in 441—subrule 41.22(6) or 41.22(7) from being met or when the client receives a duplicate grant.

a. An overpayment of any amount is subject to recoupment with one exception: When the client receives a grant that exceeds the amount on the most recent notice from the department, recoupment shall be made only when the amount received exceeds the amount on the notice by \$10 or more. ~~The client is required to timely report receipt of excess assistance under 441—subrule 40.27(4).~~

b. An overpayment due to agency error shall be computed as if the information had been acted upon timely.

ITEM 16. Rescind and reserve rule **441—46.28(239B)**.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection 11, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial

Care," and Chapter 88, "Managed Health Care Providers," Iowa Administrative Code.

These amendments add remedial services as a covered service under Medicaid and define the amount, duration, and scope of remedial services. Remedial services are defined as services designed to minimize or eliminate the symptoms or causes of a psychological disorder. This service category will include services currently furnished by providers of rehabilitation services for adults with chronic mental illness (ARO) and services currently furnished by providers of rehabilitative treatment services (RTS) in the child welfare system.

The way in which remedial services will be provided under Medicaid is being changed to reflect a medical model of rehabilitation. The Department has redefined the scope of services to closely match the definition of these services under federal Medicaid regulations. After discussions with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, the Department has determined that these changes are necessary to ensure continued access to remedial services for both the child and adult populations.

Under these amendments, the service categories of ARO and RTS are deleted from the Medicaid program. Current ARO providers will not need to reenroll in order to provide remedial services. However, there will be new billing codes and a new quality oversight process that will involve reviews of the services provided both by clinicians and service providers. All RTS providers will need to enroll as remedial services providers.

Under the new model of services, remedial services providers will implement the treatment plans developed by licensed practitioners of the healing arts.

- To receive remedial services, all Medicaid members, including those currently receiving ARO services, will be required to have assessment and treatment planning completed by a licensed practitioner of the healing arts.

- The licensed practitioner will have an ongoing practitioner/client relationship with the Medicaid member.

- The licensed practitioner will be responsible for ongoing reassessment and review of the treatment plan.

Providers will be reimbursed on a retrospective cost-related basis, with rates capped at 110 percent of the average cost. All providers will be required to submit cost reports for rate determination. There may be higher rates for current RTS providers that will now be reimbursed on a cost-related basis. Some current ARO providers may have lower rates as a result of the rate cap of 110 percent of the average cost.

In 2006 Iowa Acts, House File 2734, section 10, subsection 11, the General Assembly directed the Department to submit a state plan amendment to CMS to implement these changes. The Department has been keeping affected providers informed of its progress in implementing these changes through correspondence and on its Web site (www.dhs.state.ia.us).

The Department plans to implement these changes effective November 1, 2006, using the emergency rule-making process.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 20, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover

HUMAN SERVICES DEPARTMENT[441](cont'd)

State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on September 20, 2006, from 10 to 11:30 a.m. in the Fifth Floor NE Conference Room, Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection 11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 441—77.38(249A) and adopt the following **new** rule in lieu thereof:

441—77.38(249A) Remedial services providers. Providers of remedial services are eligible to participate in the medical assistance program when:

1. They are accredited by the mental health, mental retardation, developmental disabilities, and brain injury commission; or
2. They can demonstrate to the Iowa Medicaid enterprise that they have the skills and resources necessary to implement a member's service plan.

This rule is intended to implement Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection 11.

ITEM 2. Rescind and reserve rule **441—77.42(249A)**.

ITEM 3. Rescind rule 441—78.42(249A) and adopt the following **new** rule in lieu thereof:

441—78.42(249A) Remedial services. Payment will be made for remedial services not otherwise covered under this chapter that are designed to minimize or, if possible, eliminate the symptoms or causes of a psychological disorder, subject to the limitations in this rule.

78.42(1) Coverage of services. Medicaid covers remedial services if the following conditions are met:

a. A licensed practitioner of the healing arts acting within the practitioner's scope of practice under state law has diagnosed the member with a psychological disorder. For purposes of this rule, a "licensed practitioner of the healing arts" means any provider who is:

- (1) Enrolled in the Iowa Plan; and
- (2) Qualified to provide clinical assessment services under the Iowa Plan (CPT code 90801).

b. The licensed practitioner has recommended the remedial services as part of a plan of treatment designed to treat the member's psychological disorder. Diagnosis and treatment plan development provided in connection with this rule for members enrolled in the Iowa Plan are covered services under the Iowa Plan.

c. The remedial services provider has prepared a written remedial services implementation plan that has been approved by:

- (1) The member or the member's parent or guardian; and

(2) The medical services unit of the Iowa Medicaid enterprise.

78.42(2) Approval of plan. The remedial services provider shall submit the treatment plan and the remedial services implementation plan to the Iowa Medicaid enterprise medical services unit for approval before providing the service.

a. Initial plan. The Iowa Medicaid enterprise shall approve the provider's initial remedial services implementation plan if:

(1) The plan conforms to the medical necessity requirements in subrule 78.42(3);

(2) The plan is consistent with the written diagnosis and treatment recommendations made by the licensed practitioner;

(3) The plan is sufficient in amount, duration, and scope to reasonably achieve its purpose;

(4) The provider can demonstrate that the provider possesses the skills and resources necessary to implement the plan, as required in rule 441—77.38(249A);

(5) The plan does not exceed three months' duration; and

(6) The plan requires that written progress notes be submitted no less often than weekly to the licensed practitioner whose treatment plan is being implemented.

b. Subsequent plans. The Iowa Medicaid enterprise may approve a subsequent remedial services implementation plan if the services are recommended by a licensed practitioner of the healing arts who has:

(1) Reexamined the member; and

(2) Reviewed the original diagnosis and treatment plan and the remedial services provider's progress notes.

78.42(3) Medical necessity. Nothing in this rule shall be deemed to exempt coverage of remedial services from the requirement that the services be medically necessary. "Medically necessary" means that the service is:

a. Consistent with the diagnosis and treatment of the member's condition;

b. Required to meet the medical needs of the member and is needed for reasons other than the convenience of the member or the member's caregiver;

c. The least costly type of service that can reasonably meet the medical needs of the member; and

d. In accordance with the standards of good medical practice. The standards of good practice for each field of medical and remedial care covered by Iowa Medicaid are those standards of good practice identified by:

(1) Knowledgeable Iowa clinicians practicing or teaching in the field; and

(2) The professional literature regarding best practices in the field.

This rule is intended to implement Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection 11.

ITEM 4. Rescind and reserve rule **441—78.48(249A)**.

ITEM 5. Amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(2)**, basis of reimbursement of specific provider categories table, as follows:

Delete the provider categories of "rehabilitation services for adults with a chronic mental illness" and "rehabilitative treatment services."

Adopt the following **new** provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Remedial services provider	Retrospective cost-related. See 79.1(19)	110% of average cost.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rescind subrule 79.1(19) and adopt the following **new** subrule in lieu thereof:

79.1(19) Reimbursement for remedial services. Reimbursement for remedial services shall be made on the basis of a unit rate that is calculated retrospectively for each provider based on reasonable and proper costs of operation, not to exceed the established unit-of-service limit. The unit of service may be a quarter-hour, a half-hour, an hour or a day, depending on the service provided.

a. Interim rate. Providers shall be reimbursed through a prospective interim rate equal to the previous year's retrospectively calculated unit-of-service rate. On an interim basis, pending determination of remedial services provider costs, the provider may bill and shall be reimbursed at a unit-of-service rate that the provider and the Iowa Medicaid enterprise may reasonably expect to produce total payments to the provider for the provider's fiscal year consistent with Medicaid's obligation to reimburse that provider's reasonable costs.

b. Cost reports. Reasonable and proper costs of operation shall be determined based on cost reports submitted by the provider.

(1) Financial information shall be based on the provider's financial records. When the records are not kept on an accrual basis of accounting, the provider shall make the adjustments necessary to convert the information to an accrual basis for reporting. Failure to maintain records to support the cost report may result in termination of the provider's Medicaid enrollment.

(2) The provider shall complete Form 470-0664, Financial and Statistical Report for Purchase of Services, and submit it to the IME Provider Cost Audit and Rate Setting Unit, P.O. Box 36450, Des Moines, Iowa 50315, within three months of the end of the provider's fiscal year.

(3) A provider may obtain a 30-day extension for submitting the cost report by sending a letter to the IME provider cost audit and rate setting unit before the cost report due date. No extensions will be granted beyond 30 days.

(4) Providers of services under multiple programs shall submit a cost allocation schedule, prepared in accordance with generally accepted accounting principles and requirements specified in OMB Circular A-87. Costs reported under remedial services shall not be reported as reimbursable costs under any other funding source. Costs incurred for other services shall not be reported as reimbursable costs under remedial services.

(5) If a provider fails to submit a cost report that meets the requirement of this paragraph, the department shall reduce payment to 76 percent of the current rate. The reduced rate shall be paid for not longer than three months, after which time no further payments will be made.

(6) A projected cost report shall be submitted when a new remedial services provider enters the program or an existing remedial services provider adds a new service code. A prospective interim rate shall be established using the projected cost report. The effective date of the rate shall be the day the provider becomes certified as a Medicaid provider or the day the new service is added.

c. Rate determination. Cost reports as filed shall be subject to review and audit by the Iowa Medicaid enterprise to determine the actual cost of services rendered to Medicaid members, using an accepted method of cost apportionment (as specified in OMB Circular A-87).

(1) A reasonable cost for a member is one that does not exceed 110 percent of the average cost of providing similar remedial services for members who have similar diagnoses and who live in similar settings.

(2) When the reasonable and proper costs of operation are determined, a retroactive adjustment shall be made. The retroactive adjustment represents the difference between the amount received by the provider through an interim rate during the year for covered services and the reasonable and proper costs of operation determined in accordance with this subrule.

ITEM 6. Amend subrule 88.65(6) as follows:

88.65(6) Excluded services. Unless *the service is specifically included in the contract*, the contractor shall not be required to provide long-term care (e.g., residential care facilities, nursing facilities, state hospital schools, or intermediate care facilities for persons with mental retardation) or ~~services provided as part of the Medicaid rehabilitative treatment services as set forth in 441—Chapter 185 remedial services.~~

ARC 5372B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6 and 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection (11), the Department of Human Services proposes to amend Chapter 156, “Payments for Foster Care and Foster Parent Training,” rescind Chapter 181, “Family Preservation Supportive and Nonrehabilitative Treatment Services,” and amend Chapter 182, “Family-Centered Services,” Chapter 185, “Rehabilitative Treatment Services,” and Chapter 202, “Foster Care Services,” Iowa Administrative Code.

These amendments change rules for child welfare services to accommodate proposed Medicaid amendments (see **ARC 5368B** herein) that will remove rehabilitative treatment services as covered Medicaid services and substitute a new service category, remedial services. Under the proposed Medicaid amendments, the Department redefines the scope of covered rehabilitative services to closely match the definition of these services under federal Medicaid regulations. The way remedial services are provided under Medicaid will change to reflect a medical model of rehabilitation.

After discussions with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, the Department has determined that these changes are necessary to ensure continued access to remedial services. The General Assembly, in 2006 Iowa Acts, House File 2734, section 10, subsection 11, directed the Department to submit a state plan amendment to CMS to implement the changes to remedial services.

The Department plans to implement the Medicaid amendments effective November 1, 2006, using the emergency rule-making process. These amendments remove references to rehabilitative and nonrehabilitative family-centered, family preservation, family foster care, and group care services. As of November 1, 2006, these services will no longer be provided. Children who need rehabilitative services will be served through the Medicaid program under the new remedial services category. Before November 1, 2006, the De-

HUMAN SERVICES DEPARTMENT[441](cont'd)

partment will adopt rules providing a new rate methodology for group care maintenance and child welfare services. The Department is engaging providers in discussions to evaluate possible methodologies.

These amendments constitute an interim step in redesigning child welfare services to accommodate changes in Medicaid funding. The Department plans to propose rules later this fall to address how child welfare services should be provided and authorized in an environment “delinked” from the Medicaid program.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 20, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on September 20, 2006, from 10 to 11:30 a.m. in the Fifth Floor NE Conference Room, Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as those related to hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code sections 234.6 and 249A.4 and 2006 Iowa Acts, House File 2734, section 10, subsection (11).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **441—156.1(234)** as follows:

Amend the definition of “group care maintenance” as follows:

“Group care maintenance” means food, clothing, shelter, school supplies, personal incidentals, daily care and, *general parenting, discipline, and supervision of children to ensure their well-being and safety, and administration of maintenance items provided in a group care facility.*

Adopt the following **new** definition of “child welfare service” in alphabetical order:

“Child welfare service” means age-appropriate activities to maintain a child’s connection to the child’s family and community, to promote reunification or other permanent placement, and to facilitate a child’s transition to adulthood.

ITEM 2. Amend subrule **156.6(4)** as follows:

Amend paragraph “d” as follows:

d. When a ~~treatment~~ foster family provides care to a child receiving *who exhibits* behavioral management services for children in therapeutic foster care pursuant to 441—subrule 185.62(3) *difficulties, as evidenced by the child’s score on Form 470-4401, Foster Care Behavioral Assessment*, the foster family shall be paid the basic maintenance rate plus \$14.80 per day *with the approval of the service area administrator or designee.*

Rescind and reserve paragraph “e.”

ITEM 3. Rescind and reserve subrule **156.7(3)**.

ITEM 4. Amend rule 441—156.9(234) as follows:

Amend subrule 156.9(1) as follows:

156.9(1) In-state reimbursement. Public and private foster group care facilities licensed or approved in the state of Iowa shall be paid for group care maintenance and *child welfare services in accordance with the rate-setting methodology in rules 441—185.83(234) and 441—185.101(234) to 441—185.108(234) to be determined by November 1, 2006.*

a. *Providers of maintenance and child welfare services shall utilize a staff-to-child ratio during prime programming time that will be determined before November 1, 2006. The number and qualifications of the staff will vary depending on the needs of the children.*

b. Additional payment for group care maintenance may be authorized if a facility provides care for a mother and her young child according to subrule 156.9(4).

Amend subrule 156.9(2) as follows:

Amend the introductory paragraph as follows:

156.9(2) Out-of-state group care payment rate. The payment rate for maintenance and ~~treatment~~ *child welfare services provided by public or private agency group care licensed or approved in another state shall be established using the same rate-setting methodology as in rules 441—185.83(234) and 441—185.101(234) to 441—185.108(234) subrule 156.9(1), unless the director determines that appropriate care is not available within the state pursuant to the following criteria and procedures.*

Adopt **new** paragraph “d” as follows:

d. Exceptions. Any exception to rules 441—185.102(234) to 441—185.107(234) or 441—185.109(234) that was granted before January 1, 1998, to an out-of-state provider based upon the other state’s requirement that a provider in that state be paid the same rate that the provider is paid for clients from that state shall remain in effect as written.

ITEM 5. Amend rule 441—156.19(237) as follows:

441—156.19(237) Rate of payment for care in a residential care facility. When a child is receiving group care maintenance and ~~treatment~~ *child welfare services in a licensed residential care facility and is not eligible for supplemental security income or state supplementary assistance, the department will pay for the group care maintenance and treatment child welfare services in accordance with rules 441—185.81(234) and 441—185.101(234) to 441—185.108(234) subrule 156.9(1).* When a child receives group care maintenance and treatment services in a licensed residential care facility and is eligible for supplemental security income or state supplementary assistance, the department will pay for ~~group care treatment~~ *child welfare services in accordance with rules 441—185.81(234) to 441—185.108(234) subrule 156.9(1).*

ITEM 6. Amend rule 441—156.20(234) as follows:

Amend subrule **156.20(1)**, paragraph “a,” subparagraph (2), as follows:

(2) Limitations. Department payment for group care shall be limited to placements which have been authorized by the ~~review organization pursuant to rule 441—185.4(234) department and which conform to the service area group care plan developed pursuant to rule 441—202.17(232).~~ Payment for an out-of-state group care placement shall be limited to placements approved pursuant to 441—subrule 202.8(2) ~~and where the facility meets provider certification according to rule 441—185.10(234).~~

Amend subrule 156.20(2) as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

156.20(2) Provider eligibility for payment. Except for payments for foster parents or youth in supervised apartment living, payment shall be limited to providers with a purchase of service contract in force. Providers of family foster care ~~treatment services supervision~~ and group care ~~treatment services~~ shall ~~meet certification requirements in rule 441—185.9(234) or 441—185.10(234) and have a purchase of rehabilitative treatment and supportive services contract under 441—Chapter 152 in force.~~

ITEM 7. Rescind and reserve **441—Chapter 181.**

ITEM 8. Amend **441—Chapter 182**, preamble, third unnumbered paragraph, as follows:

This chapter defines and structures supportive services in the family-centered service program. These rules set the eligibility criteria, application and approval procedures, requirements for service provision, reimbursement methodology, provider qualifications, and service termination and appeal procedures for the program. ~~Family-centered rehabilitative treatment service components are addressed in 441—Chapter 185.~~

ITEM 9. Amend rule **441—182.1(234)** as follows:

Amend the definition of “treatment plan” as follows:

“Treatment plan” means a written, goal-directed plan of service developed for a child and family by the provider in compliance with 441—subrules 185.10(4) and 185.10(5).

Rescind the definitions of “nonrehabilitative treatment need” and “rehabilitative treatment need.”

ITEM 10. Rescind and reserve subrules **182.2(3)** and **182.2(4).**

ITEM 11. Amend rule 441—182.3(234) as follows:

Amend paragraph **182.3(1)“c,”** introductory paragraph, as follows:

c. ~~Supervision and nonrehabilitative treatment services are available to children and their families when juvenile court services has opened a case on a youth because:~~

Rescind and reserve paragraph **182.3(1)“d.”**

Amend subparagraphs **182.3(4)“c”(1)** and **(2)** as follows:

(1) Children in shelter care may receive a maximum of 20 service units of ~~any combination of parental counseling and education or nonrehabilitative treatment therapy and counseling or skill development services~~ for purposes of family reunification.

(2) The maximum length of time that parental counseling and education ~~or nonrehabilitative treatment services~~ may be provided to a child placed in shelter care is 30 days from the start date of these services, without regard to the length of the child’s shelter care stay.

ITEM 12. Amend rule 441—182.4(234) as follows:

Amend the introductory paragraph as follows:

441—182.4(234) Approval and referral for services. The referral worker shall assess a child’s eligibility for services in accordance with rule 441—182.3(234) and *shall* determine if services under the family-centered program are necessary to help achieve the goals and outcomes of the case permanency plan. Department case permanency plan development, provision of social casework, and activities for the delivery of family-centered services shall adhere to the provisions of rules 441—130.6(234); and 441—130.7(234); and 441—Chapter 185, Divisions I and II. Except when a department worker is specified, the provisions of this rule also apply to a juvenile court officer who is the referral worker for a child who qualifies for supervision or nonrehabilitative treatment services.

Amend paragraph **182.4(3)“b,”** introductory paragraph, as follows:

b. Cases managed by juvenile court services. For ~~nonrehabilitative treatment and supervision services~~ when a juvenile court officer is the referral worker, the juvenile court officer shall, before approving services, communicate with the department supervisor designated by the service area manager to confirm that the officer has explored alternative funding streams and that funding is available in the service area’s child welfare budget to support the services proposed for the child.

Amend paragraph **182.4(4)“a,”** introductory paragraph, as follows:

a. The referral worker shall complete Form 470-3055, Referral of Client for Rehabilitative Treatment and Supportive Services, ~~including any rehabilitative treatment services approved for the client and indicating:~~

ITEM 13. Amend rule 441—182.5(234) as follows:

Rescind and reserve subparagraph **182.5(1)“a”(2).**

Amend subrule 182.5(4), introductory paragraph, as follows:

182.5(4) ~~Nonrehabilitative treatment and parental~~ *Parental* counseling and education.

Rescind and reserve paragraph **182.5(4)“a.”**

Amend paragraph **182.5(4)“b”** as follows:

b. ~~Persons delivering nonrehabilitative treatment therapy and counseling or parental counseling and education shall meet the minimum education and experience requirements for therapy and counseling services as specified in rule 441—185.10(234).~~

ITEM 14. Amend rule 441—182.6(234) as follows:

Amend subrule 182.6(3), introductory paragraph, as follows:

182.6(3) Service management activities. Providers of supervision, ~~nonrehabilitative treatment~~, or parental counseling and education components shall undertake nonbillable activities to structure and facilitate the delivery of the service they are providing in response to the directions and goals of the case permanency plan. These activities shall include the following:

Amend subrule 182.6(6), introductory paragraph and paragraph “a,” as follows:

182.6(6) ~~Nonrehabilitative treatment and parental~~ *Parental* counseling and education. Providers of ~~family-centered nonrehabilitative treatment or parental counseling and education~~ shall:

a. Develop a treatment plan in accordance with 441—subrules 185.10(4) and 185.10(5). ~~For a child who is also receiving rehabilitative treatment services from the same provider, the treatment plan for nonrehabilitative treatment or parental counseling and education shall be combined with the rehabilitative treatment plan.~~

Rescind and reserve subparagraph **182.6(6)“b”(2).**

Amend paragraph **182.6(6)“c”** as follows:

c. Document service delivery in the child’s individual treatment record in accordance with the requirements of this subrule, 441—subrules 152.2(16) and 185.10(6), and rule 441—182.7(234). ~~Service documentation in the child’s individual treatment record shall specify which services delivered are nonrehabilitative treatment or parental counseling and education, as opposed to rehabilitative treatment therapy and skill development services.~~

ITEM 15. Amend rule 441—182.7(234) as follows:

Amend subrules 182.7(2) and 182.7(3) as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

182.7(2) Progress reports. For family-centered supervision, ~~nonrehabilitative treatment~~, and parental counseling and education, providers shall complete progress reports that comply with 441—paragraph 185.10(6)“f.” Provider progress reports are not required for family team meeting facilitation, community resource procurement, relative home studies and updates, or the flexible family support fund.

182.7(3) Discharge summary. For family-centered supervision, ~~nonrehabilitative treatment~~, and parental counseling and education, providers shall prepare a written report for the referral worker in accordance with 441—paragraph 185.10(6)“e” within 30 days of the termination of services. Discharge summaries are not required for family team meeting facilitation, community resource procurement, relative home studies, or the flexible family support fund.

Amend paragraph **182.7(4)“h,”** introductory paragraph, as follows:

h. For ~~nonrehabilitative treatment~~, parental counseling and education, and supervision, documentation to substantiate each unit of service billed to the department. This documentation shall include:

ITEM 16. Amend rule 441—182.8(234) as follows:

Rescind and reserve paragraph **182.8(1)“c.”**

Amend paragraph **182.8(2)“a”** as follows:

a. Unit rates for supervision and ~~nonrehabilitative treatment~~ services shall be established in accordance with 441—Chapter 185, Division VI. ~~Unit rates for therapy and counseling and for skill development are the same whether the child's treatment need is rehabilitative or nonrehabilitative.~~

Amend subrule 182.8(3) as follows:

182.8(3) Indirect costs. Expenses of transporting clients, service management activities, and other administrative functions shall be allowable indirect costs for ~~nonrehabilitative treatment~~, parental counseling and education, community resource procurement, and supervision services, subject to the restrictions set forth in 441—Chapters 152 and 185. Such costs and activities are not directly billable costs or activities.

ITEM 17. Amend 441—Chapter 185 as follows:

Rescind and reserve rules **441—185.2(234)** through **441—185.7(234)**.

Rescind and reserve **Divisions II, III, IV, and V.**

ITEM 18. Amend subrule 202.2(2) as follows:

202.2(2) The need for foster care placement and social and other related services including, but not limited to, medical, psychiatric, psychological, and educational services shall be determined by an assessment of the child and family to determine their needs and appropriateness of services. Assessments include the educational, physical, psychological, social, family living, and recreational needs of the child and the family's ability to meet those needs. The assessment is a continual process to identify needed changes in service or placement for the child. ~~The need for treatment services shall be determined by the review organization pursuant to rule 441—185.2(234).~~

ITEM 19. Rescind and reserve paragraph **202.4(5)“f.”**

ARC 5369B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“h.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments make the following changes to policy for the Child Care Assistance program:

- Remove language that allows an exception to the age requirement for children with “special circumstances” who are part of a Family Investment Program (FIP) household. This exception is in conflict with state law. Iowa Code section 239B.24 states that a person who is deemed eligible for Child Care Assistance benefits due to the person's relationship to the FIP program is subject to all other Child Care Assistance requirements. Iowa Code section 237A.1 defines “child” to be a person 12 years of age or younger unless the person has developmental disabilities.

- Clarify the review and redetermination process by adding a six-month certification period. The current rules state that eligibility must be redetermined every six months, but the rules are not clear on the consequences if a family does not complete the review requirements.

- Add a new form to be used for reporting the information needed to redetermine eligibility. Current rules require the family to resubmit the entire initial application. The Department will mail the review form to the family before the end of the six-month certification period and notify the family of the date the certification period ends. If the family does not return the review form before the certification period ends, assistance will be canceled, and the family will have to reapply for benefits using the normal application process.

- Update the provider reimbursement ceilings for basic care to reflect the 2004 market rate survey of child care providers. The Department has been increasingly concerned that providers have begun to limit the number of Child Care Assistance children they enroll because the program's rates are still based upon the 2002 market rate survey. Increasing the rate ceilings to reflect the 2004 survey is expected to raise the average monthly payment by \$23 per month. The specific increase depends on the type of facility and the age of the child. The Eighty-first General Assembly appropriated funding for this purpose in 2006 Iowa Acts, House File 2734. Only registered child development homes and licensed child care centers are affected. The rate ceiling for unregulated child care homes remains the same to serve as an incentive for registration.

These amendments do not provide for waivers in specific situations because all Child Care Assistance recipients should be subject to the eligibility requirements. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 20, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover

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State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 237A.13 and 237A.29.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **170.2(2)**, paragraph “a,” as follows:

a. Age. Child care shall be provided only to children up to age 13, unless they are children with special needs, in which case child care shall be provided up to age 19. ~~Children who are part of the family investment program who are 13 years of age and older may be eligible for child care assistance benefits if there are special circumstances surrounding the child in need of child care. The child's parent or guardian shall submit a request for an exception to the supervisor of the county department office.~~

ITEM 2. Amend rule 441—170.3(237A,239B) as follows:

Amend subrule **170.3(1)** by adopting the following **new** paragraph “d”:

d. Families who are determined eligible for child care assistance shall be approved for a certification period of no longer than six months. Families who fail to complete the review and redetermination process as described at subrule

170.3(5) will lose eligibility at the end of the certification period.

Amend subrule 170.3(5) as follows:

170.3(5) Review and redetermination. ~~Eligibility~~ *The department shall redetermine a family's financial and general eligibility for child care assistance shall be redetermined at least every six months in the same manner as at application.* EXCEPTION: ~~Recipients~~ *The department shall redetermine only general eligibility for recipients of the family investment program (FIP) or and for those whose earned income was taken into account in determining the needs of family investment program FIP recipients shall be, because these people are deemed financially eligible notwithstanding eligibility redetermination requirements so long as the FIP eligibility continues.*

a. If the department has suspended family investment program FIP benefits, the family will continue to receive child care assistance on the basis of family investment program FIP eligibility until family investment program FIP eligibility has been canceled.

b. If family investment program FIP eligibility ends, the department shall redetermine financial and general eligibility for child care assistance eligibility according to the requirements in rule 441—170.2(237A,239B). The redetermination of eligibility shall be completed within 30 days.

c. *The department shall use the information gathered on Form 470-4377, Child Care Assistance Review, to redetermine eligibility. The department shall issue a notice of expiration for the child care assistance certification period in Form 470-4377. If the family does not return Form 470-4377 to the department by the end of the certification period, the family must reapply for benefits.*

ITEM 3. Amend subrule **170.4(7)**, paragraph “a,” Table I, as follows:

Table I Half-Day Rate Ceilings for Basic Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$14.50 \$15.50	\$11.25 \$12.00	\$10.00 \$11.50	\$8.19
Preschool	\$12.00 \$12.50	\$10.00 \$11.25	\$10.00 \$11.25	\$7.19
School Age	\$10.50 \$11.25	\$10.00	\$10.00	\$7.36

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 225C.36, the Department of Human Services proposes to amend Chapter 184, “Individual and Family Direct Support,” Iowa Administrative Code.

These amendments conform rules for the Family Support Subsidy Program and the Comprehensive Family Support Program to statutory changes enacted in 2006 Iowa Acts, Senate File 2217, division VI. The amendments add statutory provisions for the use of family support subsidy funds, for

exclusions to family support subsidy eligibility, for a requirement for the family to identify the age at which the family member's eligibility will end, and for changes in determining the amount of the subsidy. Limiting eligibility for the Family Support Subsidy Program will make funds available to expand the Comprehensive Family Support Program.

The amendments also rescind Division II of Chapter 184, “Personal Assistance Services,” and replace it with a new Division II, Comprehensive Family Support Program. The Comprehensive Family Support Program, also known as “Children at Home,” provides families with assistance in locating resources and with funding when other sources of support are not available. The proposed rules cover application procedures, eligibility, and program administration. Whenever possible, the Department intends to contract with local agencies for program administration.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 20, 2006. Comments should be directed to Mary Ellen Imlau, Office of

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Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on September 20, 2006, from 4 to 6 p.m. at ASK Resource Center, 321 East Sixth Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as those related to hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code sections 225C.35 to 225C.42 and 225C.46 to 225C.49 as amended by 2006 Iowa Acts, Senate File 2217, division VI.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 441—184.2(225C) as follows:

Amend subrule 184.2(6) as follows:

184.2(6) The applicant agrees that, if the child receives Medicaid, the subsidy shall only be used for the cost of services that are not covered by Medicaid. *This subsidy is intended to complement but not supplant public assistance or social service benefits that are based on economic need and are available to the family through governmental programs or other means.*

Adopt **new** subrule 184.2(7) as follows:

184.2(7) Exclusions. Unless a family requests and receives approval from the department for an exception to policy according to rule 441—1.8(17A,217), a family is not eligible to receive the family support subsidy if any of the following are applicable to the family or the family member for whom the application is submitted:

a. The family member is a special needs child who was adopted by the family, and the family is receiving financial assistance under Iowa Code section 600.17.

b. Medical assistance home- and community-based waiver services are provided for the family member and the family lives in a county in which comprehensive family support program services are available.

c. Medical assistance home- and community-based waiver services are provided for the family member under a consumer choices option.

ITEM 2. Amend rule 441—184.3(225C) as follows:

Amend paragraph **184.3(1)“b”** by adopting **new** subparagraph (3) as follows:

(3) The application shall identify the age at which the family member's eligibility shall end. The age identified is subject to approval by the department.

Amend subrule 184.3(4) as follows:

184.3(4) After funds appropriated for this purpose are obligated, pending applications will be denied by the district local office.

a. A denial shall require a notice of decision to be mailed within ten calendar days following the determination that funds have been obligated. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements.

b. Applicants not awarded funding who meet the eligibility requirements will be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the local office. In the event that more than one application is received at one time, families shall be entered on the waiting list on the basis of the day of the month of the child's birthday, the lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

ITEM 3. Amend subrule 184.4(3) as follows:

184.4(3) Families shall retain the greatest possible flexibility in determining use of the subsidy, except a parent or legal guardian who receives aid to dependent children family investment program benefits shall not use the subsidy to meet the basic needs of the family as defined in 441—subrule 41.8(2) 41.28(2) or the special needs as defined in 441—subrule 41.8(3) 41.28(3). In addition, if the child receives Medicaid, the subsidy shall only be used for the cost of services which are not covered by Medicaid.

ITEM 4. Amend rule 441—184.6(225C) as follows:

441—184.6(225C) Amount of subsidy payment.

184.6(1) Monthly payment. Families approved for payment shall receive an ongoing monthly payment ~~which that is equal to the maximum supplemental security income payment available in Iowa in effect at the beginning of each state fiscal year for an adult recipient living in the home of another~~ determined by dividing the amount appropriated by the legislature by the number of available subsidy slots designated by the legislature for each state fiscal year. The number of slots and amount requested by the department shall be determined after consultation with the comprehensive family support council.

184.6(2) Advance payment. In addition, a one-time lump-sum advance payment of twice the monthly amount may be paid to the parent or legal guardian whose family member will be returning home for the purpose of preparing for in-home care.

184.6(3) Effective date. An approved subsidy shall be payable as of the first of the month following approval. A notice of decision stating that the application is approved shall be sent within two working days of the approval. The notice shall state the date payments will begin, the amount of monthly payments, and, if different, the amount of the first payment.

ITEM 5. Rescind **441—Chapter 184, Division II**, and adopt a **new** Division II as follows:

DIVISION II

COMPREHENSIVE FAMILY SUPPORT PROGRAM

PREAMBLE

The purpose of this division is to define and structure the comprehensive family support program, known as “children at home.” This program is designed to assist families raising a child with a disability in obtaining needed services and supports. This program provides families with assistance in locating resources and with funding when other sources of support are not available. It is the intent of the legislature that families maintain control over decision making regarding what is best for their children. Services and support provided under the children at home program shall not be used to supplant other services and supports available to the family of an

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individual with disabilities but shall be used to meet family needs that would not be met without the program.

441—184.21(225C) Definitions.

“Comprehensive family support” means the array of services and supports that assist families who are caring for a family member with a disability. Services and supports include, but are not limited to, programs, services, parent-to-parent support, assistive devices, and various adaptations that allow children with disabilities to participate more fully in family and community life.

“Family” means a group of interdependent persons living in the same household. A family may consist of an individual with a disability and any of the following:

1. The individual's parent.
2. The individual's sibling.
3. The individual's grandparent, aunt, or uncle.
4. The individual's legal custodian.

5. A person who is providing short-term foster care to the individual subject to a case permanency plan that provides for reunification between the individual and the individual's parent.

“Family” does not include a person who is employed to provide services to an individual with a disability in an out-of-home setting, including but not limited to a hospital, nursing facility, personal care home, board and care home, group foster care home, or other institutional setting.

“Individual with a disability” means a person who is less than 22 years of age and meets the definition of developmental disability in 42 U.S.C. § 6001.

“Services and support” means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to integrate into the individual's community. Services and support may include, but are not limited to, funding for:

1. Purchase of equipment, respite care, supplies, or assistive technology; and
2. Payment of other costs attributable to the individual's disability that are identified by the individual's family.

441—184.22(225C) Eligibility. Eligibility for the children at home program is limited to families who meet all the following conditions:

184.22(1) The family resides in the state of Iowa.

184.22(2) The family includes an individual with a disability.

184.22(3) The family expresses an intent for the individual with a disability to remain living in the family's home.

184.22(4) The family's net taxable income in the most recently completed tax year is less than \$60,000.

441—184.23(225C) Application. A family may apply to the department or to a local children at home contractor for assistance using Form 470-4399, Application for Children at Home Services. The local children at home contractor shall determine eligibility for services in accordance with the provisions of this division.

441—184.24(225C) Contractor selection and duties. Whenever possible, the department shall contract with local agencies to implement the children at home program.

184.24(1) Selection. Contractors shall be selected through competitive bidding and a demonstrated ability to provide disability-related services and supports.

184.24(2) Duties. The local children at home contractor shall agree to perform the following activities:

a. Provide a single entry point for applicants to learn about and connect with a variety of needed services and supports.

b. Assist families in identifying and applying for services they believe will help meet the needs of their family.

c. Develop and disseminate a brochure describing the services available.

d. Provide services and support in a timely manner.

e. Inform families of emergency access to needed services and support, as needed.

f. Survey parents annually to determine how the program is helping parents meet the needs of individuals with disabilities and include the survey results in the annual report to the department.

g. Submit quarterly and annual reports to the department. The reports shall contain:

(1) A summary of the number of applications and services provided;

(2) An unduplicated count of children and families served; and

(3) Any other items listed in the contract with the department.

441—184.25(225C) Direct assistance. Each local children at home contractor shall, with the advice and assistance of the parent advisory council described in rule 441—184.27(225C), develop procedures for providing direct financial assistance for supports and services that cannot be funded through other programs or means. Local policies shall be submitted to and approved by the department.

441—184.26(225C) Appeals. A process is available to appeal the department's or the local children at home contractor's decisions involving families that apply for the children at home program and are denied services and support under the program. Families, contractors, and the department shall follow the appeal procedures outlined in 441—Chapter 7.

441—184.27(225C) Parent advisory council. Each local children at home contractor shall establish a local advisory council of at least seven members to advise the children at home program coordinator in developing local policies and procedures.

184.27(1) Membership. A majority of the advisory council members shall be parents of an individual with a disability. Other members shall be recruited from agencies and organizations that have expertise in serving families and children with special needs.

184.27(2) Role. The role of the council is to ensure that the views and best interests of individuals with disabilities and their families are represented in the policy discussions with the program coordinator. Council members may attend meetings of the comprehensive family support council established in Iowa Code section 225C.48 as amended by 2006 Iowa Acts, Senate File 2217, section 22. Final decisions regarding funding of specific requests are the responsibility of the contracting agency that is responsible for the children at home program.

These rules are intended to implement Iowa Code section 225C.47 as amended by 2006 Iowa Acts, Senate File 2217, division VI.

INSURANCE DIVISION

Notice of Proposed Workers' Compensation Rate Filing

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects the premium rates for workers' compensation insurance.

The rate filing proposes an overall increase in rates of 6.7%. The filing has a proposed effective date of January 1, 2007.

A workers' compensation policyholder or an established organization with one or more workers' compensation policyholders among its members may request a hearing before the Commissioner of Insurance regarding this rate filing. Such a request must be filed within 15 days of the date of this publication, that is, by September 14, 2006, and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, 330 Maple, Des Moines, Iowa 50319. Absent such a request, the Commissioner will issue an order concerning the rates within another 10 days, that is, by September 25, 2006.

INSURANCE DIVISION

Notice of Proposed Workers' Compensation Rate Filing

Pursuant to Iowa Code section 515A.6(7), notice is hereby given that the National Council on Compensation Insurance has made a rate filing which affects the premium rates for workers' compensation insurance.

The rate filing proposes increasing the number of hazard groups from four (4) to seven (7) and reassigning classifications to the various hazard groups. Updated Excess Loss Factors are included. The filing has a proposed effective date of January 1, 2007.

A workers' compensation policyholder or an established organization with one or more workers' compensation policyholders among its members may request a hearing before the Commissioner of Insurance regarding this rate filing. Such a request must be filed within 15 days of the date of this publication, that is, by September 14, 2006, and shall be made to the Commissioner of Insurance at the Insurance Division of the State of Iowa, 330 Maple, Des Moines, Iowa 50319. Absent such a request, the Commissioner will issue an order concerning the rates within another 10 days, that is, by September 25, 2006.

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Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.3, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 3, “Contested Cases,” Iowa Administrative Code.

The rules in Chapter 3 apply to contested case proceedings conducted by the Insurance Division. The proposed amendments to the rules are intended to update and clarify the procedures followed by the Insurance Division. The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 19, 2006, at 2 p.m. at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 17A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 3.5(5) as follows:

3.5(5) The hearing in a contested case proceeding shall be held within 45 90 days after the date of the notice of hearing, subject to the provisions of rule 3.17(17A).

ITEM 2. Amend subrule 3.6(4) as follows:

3.6(4) An administrative law judge assigned to act as presiding officer in insurance and securities matters shall have the following technical expertise unless waived by the agency: be admitted to practice law before the courts of the state of Iowa and have experience in securities or insurance matters, or other qualifying experience.

ITEM 3. Amend subrule 3.8(2) as follows:

3.8(2) Any party may call witnesses by telephone, with 14 days advance notice to all parties and the presiding officer. The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will not be held by telephone or electronic means in the absence of consent by all parties, except that the presiding officer may permit any witness to testify by telephone. Parties shall disclose if any witness will be testifying by telephone. The disclosure shall be made to the presiding officer and all parties at or before the prehearing conference, or, if no prehearing conference is scheduled, at least five business days in advance of the hearing. Failure of a party to make timely disclosure may result in the disallowance of testimony by telephone. Objections, if any, to testimony of a witness by telephone shall be filed with the presiding officer and

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served on all parties at least three business days in advance of the hearing. For purposes of this rule, service by mail shall be made by certified mail. A party filing an objection shall immediately notify, to the extent possible, all parties via telephone, facsimile, or electronic mail of the filing of the objection. The party filing the objection shall use the method of communication that is reasonably believed will deliver the notification to each party.

ITEM 4. Amend subrule 3.12(2) as follows:

3.12(2) Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by ~~delivery~~ *delivering* or by mailing a copy to the ~~person's last-known address~~ *attorney at the attorney's last-known address*. Service upon an *unrepresented party shall be made by delivering or mailing a copy to the party's last-known address*. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

ITEM 5. Amend rule 191—3.12(17A) by adopting the following **new** subrule:

3.12(6) The presiding officer, by order, may permit service or filing of particular documents by facsimile or electronic mail or similar electronic means unless such service or filing is precluded by a provision of law. When permitted, service by facsimile, electronic mail or similar electronic means is complete upon transmission. In the absence of such an order, facsimile or electronic transmission does not satisfy service or filing requirements, but may be used to supplement service or filing when rapid notice is needed.

ITEM 6. Amend rule 191—3.26(17A) by adopting the following **new** subrule:

3.26(4) Any administrative law judge serving as a presiding officer in a contested case shall report to the commissioner on a monthly basis all matters taken under advisement for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of a proposed decision. A matter shall be reported when all hearings have been completed and the matter awaits decision without further appearance of the parties or their attorneys, even though briefs or transcripts have been ordered but have not yet been filed. The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the administrative law judge. All reports received will be filed with the Iowa insurance division as records available for public inspection.

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INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 10, “Licensing of Insurance Producers,” Iowa Administrative Code.

The rules in Chapter 10 set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers. The proposed amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners (NAIC). The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 19, 2006, at 2 p.m. at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 522B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **191—Chapter 10** by changing the parenthetical implementation statute from “79GA,SF276” to “522B” wherever it appears.

ITEM 2. Amend subrule 10.1(2) as follows:

10.1(2) These rules are authorized by Iowa Code section 505.8 and are intended to implement Iowa Code chapters 252J, and 261 and 2001 Iowa Acts, Senate File 276 522B.

ITEM 3. Amend rule 191—10.2(522B) as follows:

Amend the following definitions:

“CE term” means the three-year-one-month period *beginning the first date of the producer's birth month and ending on December 31 prior to the last day of the producer's birth month in the renewal year.*

“License” means ~~a document issued by the division which authorizes division's authorization for~~ a person to act as an insurance producer for the *authorized lines of insurance specified in the document.*

“License number” means ~~either the unique number assigned to a licensee by the division or the national insurance producer registry~~ *National Insurance Producer Registry (NIPR) national producer number (NPN) issued to all licensees whose license records exist on in the producer database.*

“Termination for cause” means that an insurer has ended its agency relationship with an insurance producer for one of the reasons set forth in 2001 Iowa Acts, Senate File 276, section 25 Iowa Code section 522B.11.

Rescind the definition of “letter of certification.”

Adopt the following **new** definitions in alphabetical order: “License term” means the three-year-one-month period of time beginning on the first day of the insurance producer's

INSURANCE DIVISION[191](cont'd)

birth month and ending on the last day of the insurance producer's birth month in the renewal year.

"National Insurance Producer Registry" or "NIPR" means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). The NIPR's Web site is www.licenseregistry.com.

"NIPR Gateway" means the communication network developed and operated by NIPR that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of producer information regarding license applications, license renewals, appointments and terminations.

ITEM 4. Amend rule 191—10.4(522B) as follows:

191—10.4(522B) Licensing of resident producers.

10.4(1) A person whose home state is Iowa and who desires to be licensed as an insurance producer must satisfy the following requirements:

- a. Be at least 18 years of age,
- b. Have not committed any act that is grounds for denial under subrule 10.20(4),
- c. Submit a completed uniform application,
- d. Pass an examination in the line of authority sought, and
- e. Pay the appropriate insurance producer license fee.

10.4(2) Examinations are conducted by the outside testing service on contract with the division. Applications and fees for examinations and for initial producer licensing ~~are will be submitted either to the outside testing service on contract with the division or as directed by the division. An applicant may request express processing of the application with payment of the appropriate fee set forth in rule 10.25(79GA,SF276)~~ *Instructions are available at the division's Web site, www.iid.state.ia.us.*

10.4(3) An application is valid for 90 days after the date the outside testing service receives a properly completed application ~~is received by the division or its designee~~. If an applicant is ~~unable to~~ *does not* pass the necessary examinations within 90 days, ~~all but \$10 of the application will expire and the license fee will not be returned~~.

10.4(4) Examination results are valid for 90 days after the date of the test. Failure to apply for licensure within 90 days after the examination is passed shall void the examination results.

10.4(5) *Amendments to insurance producer licenses shall be done either by an outside vendor or by the division, as directed by the division. Any licensed insurance producer desiring to become licensed in an additional line of authority shall:*

- a. Submit a completed uniform application form *either to the division's outside testing service or to the division, as directed by the division*, specifying the line(s) of authority requested to be added. *Instructions are available at the division's Web site, www.iid.state.ia.us;*
- b. Pass an examination for each line of authority requested to be added; and
- c. Pay the fee to amend an insurance producer license.

10.4(6) ~~Qualification in personal lines is a prerequisite for taking the commercial lines examination. A producer who holds a personal lines authority (authority number 16) can obtain property and casualty lines of authority (authority numbers 21 and 22) Upon successful completion of the commercial lines insurance subject examination, a producer will be issued the property and casualty lines of authority. Qualification in both the personal and commercial lines, or in both property and casualty lines, is a prerequisite to obtaining the surplus lines line of authority.~~

10.4(7) *To receive a license for an excess and surplus lines line of authority, the applicant must have successfully completed the examination for the excess and surplus lines line of authority (authority number 20) and also have successfully completed either: (1) the examinations for property and casualty lines of authority (authority numbers 21 and 22); or (2) the examination for personal lines of authority (authority number 16) and the commercial insurance subject examination.*

10.4(7 8) To receive a license for the variable products line of authority, the applicant must:

- a. Hold an active Iowa insurance license with a life insurance line of authority;
- b. Pass the examinations necessary to obtain an Iowa securities license; and
- c. File an application with the division to amend the license to add the variable products line of authority.

10.4(8 9) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive an insurance producer license.

ITEM 5. Amend subrules 10.5(1) and 10.5(2) as follows:

10.5(1) A producer for whom Iowa is not the home state who desires to sell, solicit or negotiate insurance in Iowa must satisfy the following requirements to obtain an Iowa nonresident insurance producer license:

- a. Be licensed and in good standing in the home state;
- b. ~~Submit a copy of the completed home state application or a completed uniform application to the division;~~
- c. Submit a proper request for licensure to the division *through the NIPR Gateway; and*
- d. ~~If the applicant's home state is not actively participating in the producer database, submit a letter of certification; and~~
- e. c. Pay the appropriate fee.

10.5(2) Any licensed nonresident producer desiring to become licensed in an additional line of authority shall submit to the division *using the NIPR Gateway*:

- a. A completed application form specifying the line(s) of authority requested to be added; *and*
- b. ~~If the applicant's home state is not actively participating in the producer database, submit a letter of certification; and~~
- e b. The appropriate fee.

ITEM 6. Amend rule 191—10.6(522B) as follows:

Amend subrules 10.6(2) and 10.6(3) as follows:

10.6(2) An individual insurance producer whose license has lapsed may seek reinstatement as set forth in rule 10.9(79GA,SF276 522B).

10.6(3) The license shall contain the producer's name, address, license number, date of issuance, date of expiration, the line(s) of authority held and any other information the division deems necessary. *The license number shall be the same as the producer's National Insurance Producer Registry (NIPR) national producer number (NPN). Effective January 1, 2008, the division will not send a paper license to the insurance producer, but insurance producers may download and print licenses through the division's Web site: www.iid.state.ia.us.*

Adopt the following new subrule:

10.6(4) If the division issues or renews a producer license and subsequently determines that payment for the license or renewal was returned to the division by a bank without payment, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the li-

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cense shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

ITEM 7. Amend rule 191—10.7(522B) as follows:

191—10.7(522B) License lines of authority.

10.7(1) The following lines of authority are available for issuance in Iowa:

<u>Number</u>	<u>Authority</u>
4	Crop
5	Surety
6	Accident and health (insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income)
7	Life (insurance coverage on human lives, including benefits of endowment, annuities, equity indexed products, may include benefits in event of death or dismemberment by accident and benefits for disability income)
9	Variable life/variable annuity products (insurance coverage provided under variable life insurance contracts and variable annuities)
16	Personal lines (fire, casualty and auto insurance sold to individuals or families)
18	Credit (offered in connection with an extension of credit to extinguish a credit obligation)
20	Excess and surplus lines (prerequisite is authority 21 and 22)
21	Property (coverage for the direct or consequential loss or damage to property of any kind)
22	Casualty (coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property)
23	Reciprocal authority (any other line of insurance issued in another state and for which Iowa grants authority to sell, solicit or negotiate in this state)

10.7(2) The following lines of authority are no longer issued in Iowa but shall remain valid so long as renewal requirements are met:

<u>Number</u>	<u>Authority</u>
1	Fire only
2	Casualty only
3	Auto only
8	County mutual
11	All but life and variable contracts
12	Life and accident and health
14	Personal lines (fire, casualty, auto, and crop insurance sold to individuals or families)
15	All but variable contracts
17	Commercial lines (fire, casualty and auto insurance sold to businesses) (prerequisite is authority 14 or 16)
19	Legal expense

- 30 Nonresident property (nonresident producers who sell insurance coverage for the direct or consequential loss of or damage to property of every kind)
- 31 Nonresident casualty (nonresident producers who sell insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property)

ITEM 8. Amend rule 191—10.8(522B) as follows:

191—10.8(522B) License renewal.

10.8(1) The division shall send a producer renewal notice to each licensed producer at the producer's last-known address as it appears in division records. If the division has received notification from the post office that the address of record is no longer valid, no renewal ~~report form~~ notice will be mailed.

10.8(2) Failure to renew a license and pay appropriate fees prior to the expiration date ~~printed on~~ of the license will result in expiration of the license.

10.8(3) The division may deliver the producer renewal ~~report~~ notice electronically. If delivered electronically, the notice will be sent to the last-known electronic mail address as provided by the insurance producer.

10.8(4) Licenses *Resident insurance producer licenses* may be renewed by use of the division's interactive telephone response system, electronically *through the division's Web site (www.iid.state.ia.us)* or by mail.

10.8(5) *Nonresident insurance producer licenses may be renewed only electronically through the division's Web site (www.iid.state.ia.us), or as otherwise directed by the division.*

ITEM 9. Amend subrule 10.9(2) as follows:

10.9(2) A nonresident producer may reinstate an expired license up to 12 months after the expiration date ~~by filing the appropriate form through the NIPR Gateway~~ and by paying a reinstatement fee and license renewal fee. After the 12-month period, a nonresident producer must apply for a new license.

ITEM 10. Rescind rule 191—10.10(522B) and adopt the following **new** rule in lieu thereof:

191—10.10(522B) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

10.10(1) The term "reinstatement" as used in this rule means the reinstatement of a suspended license. The term "reissuance" as used in this rule means the issuance of a new license following either the revocation of a license or the forfeiture of a license in connection with a disciplinary matter. This rule does not apply to the reinstatement of an expired license.

10.10(2) Any producer whose license has been revoked or suspended by order, or who forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

a. All proceedings for reinstatement or reissuance shall be initiated by the applicant who shall file with the commissioner an application for reinstatement or reissuance of a license.

b. An application for reinstatement or reissuance shall allege facts which, if established, will be sufficient to enable

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the commissioner to determine that the basis of revocation, suspension or forfeiture of the applicant's license no longer exists and that it will be in the public interest for the application to be granted. The burden of proof to establish such facts shall be on the applicant.

c. A producer may request reinstatement of a suspended license prior to the end of the suspension term.

d. Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance may not be made until at least one year has elapsed from the date of the order of the suspension (notwithstanding paragraph 10.10(2)“c”), revocation, or acceptance of the forfeiture of a license.

10.10(3) All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be docketed in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

10.10(4) An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems desirable, which may include one or more of the types of disciplinary sanctions provided by Iowa Code section 522B.11. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapter 22.

10.10(5) A request for voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission of the request unless a contested case proceeding is pending at the time the request is submitted. If a contested case proceeding is pending at the time of the request, the forfeiture becomes effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

10.10(6) A license may be voluntarily forfeited in lieu of compliance with an order of the commissioner or the commissioner's designee with the written consent of the commissioner. The forfeiture becomes effective when and upon such conditions as required by order of the commissioner, which may include one or more of the types of disciplinary sanctions provided by Iowa Code section 522B.11.

10.10(7) When a producer's license has been suspended for a period of time which extends beyond the producer's license expiration date, the license will terminate at the license expiration date, and the producer must request reinstatement pursuant to subrule 10.10(2). If suspension for a period of time ends prior to the producer's license expiration date, the division shall reinstate the license at the end of the suspension period. The commissioner is not prohibited from bringing an additional immediate action if the producer has engaged in misconduct during the period of suspension.

ITEM 11. Amend rule 191—10.11(522B) as follows:

191—10.11(522B) Temporary licenses. An Iowa resident may apply for a temporary license pursuant to ~~2001 Iowa Acts, Senate File 276, section 24~~ *Iowa Code section 522B.10*. The applicant should submit a written request to the division which includes the reason for the request and the length of

time for which the temporary license is requested. *Temporary licenses will be issued for 90 days, with extensions allowed, but in no event for longer than 180 days, pursuant to Iowa Code section 522B.10.*

ITEM 12. Rescind rule **191—10.12(522B)** and renumber rules **191—10.13(522B)** to **191—10.25(522B)** as **191—10.12(522B)** to **191—10.24(522B)**.

ITEM 13. Amend renumbered rule 191—10.12(522B) as follows:

191—10.12(522B) Change in name, address or state of residence.

10.12(1) If a producer's name is changed, the producer must file notification with the division within 30 days of the name change. The notification must include the producer's:

- a. Prior name;
- b. License number; and
- c. New name.

Notification may be filed via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available.

10.12(2) Address change. If a resident or nonresident producer's address is changed, the producer must file notification with the division within 30 days of the address change. The notification must include the producer's:

- a. Name;
- b. License number;
- c. Previous address; and
- d. New address. *A producer may designate a business address instead of a resident address at the option of the producer.*

Notification may be filed via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available.

10.12(3) A nonresident insurance producer who moves from one state to another state or an Iowa resident producer who moves to another state and wishes to retain an Iowa insurance producer license must file a change of address with the division and provide a certification from the new resident state within 30 days of the change of legal residence. No fee or license application is required. If the new resident state is actively participating in the producer database, a letter of certification is not required. A nonresident licensed insurance producer who moves to Iowa and wishes to retain the nonresident's insurance license must file a change of address with the division within 90 days of the change of legal residence.

10.12(4) Issuance of an Iowa nonresident insurance producer license is contingent on proper licensure in the nonresident insurance producer's home state. Termination of the producer's resident license will be deemed termination of the Iowa nonresident insurance producer license unless the producer timely files a change of address pursuant to this rule.

10.12(5) *If a producer has provided an E-mail address to the division, the division has the option to send information to the producer through the E-mail address rather than through the mail.*

ITEM 14. Amend renumbered subrules 10.13(1) and 10.13(3) as follows:

10.13(1) A producer shall report to the division any actions required to be reported by ~~2001 Iowa Acts, Senate File 276, section 30~~ *Iowa Code section 522B.16*.

10.13(3) Failure to file reports required by this rule is a violation of this chapter and will subject producers to penalty pursuant to rule 191—10.20(~~79GA, SF276~~ 522B).

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ITEM 15. Amend renumbered rule 191—10.15(522B) as follows:

191—10.15(522B) Appointments.

10.15(1) Insurers are required to file appointments with the division for each insurance producer with which the producer has an agency relationship. The determination of whether an insurer and an insurance producer have an agency relationship will be made by the division based on the totality of the circumstances surrounding the business relationship. Appointments are not issued for business entities.

10.15(2) Appointments must be filed using the NAIC Uniform Appointment/Termination Form or such other form approved by the division *NIPR Gateway*. Electronic filings must follow the format of the uniform form.

10.15(3) The notice of appointment must be filed within 30 days of the date the insurer and producer execute an agency contract or the first insurance application is submitted to the insurer.

10.15(4) Insurers with 100 or more active appointments on January 1, 2002, will be required to transition their appointment filing process to electronic means no later than July 1, 2002. All appointments filed on or after January 1, 2003, must be filed electronically. The division may, for good cause, grant an insurer a waiver or additional time to comply with this subrule.

10.15(5) 10.15(4) Appointment fees are set forth in rule 10.25(79GA, SE 276 522B). A billing statement will be submitted to insurance companies on a monthly basis and payment is due within 45 days. The division will assess a late fee for the failure to timely pay appointment billing statements may subject an insurer to late fees or other sanctions of \$100 on the forty-sixth day, an additional \$100 on the sixtieth day, and an additional \$100 each day thereafter.

10.15(6) 10.15(5) The division may adopt special appointment filing procedures to allow an insurer to file one appointment request that will appoint a producer to some or all of the affiliated insurance companies that comprise a holding company.

10.15(7) 10.15(6) When a company loses its identity in a new company by merger, acquisition, or otherwise, the new company must contact the licensing bureau to arrange for reappointment of the producers to the remaining company.

ITEM 16. Amend renumbered rule 191—10.16(522B) as follows:

191—10.16(522B) Appointment renewal.

10.16(1) *On or about December 1 of each year, the division shall send reminders to insurance companies that appointment renewals are imminent. Such reminders may be delivered electronically.*

10.16(1) 10.16(2) On or about January 2 of each year, the division shall provide a list of the producers currently appointed with each insurance company and a billing statement. The billing statement may not be altered, amended or used for appointing or terminating producers.

10.16(2) 10.16(3) Payment is due at the division on or before March 1 and must include the billing statement. Renewals received after March 1 will be subject to a late filing fee.

10.16(3) 10.16(4) Failure to pay renewal appointment fees by March 15 will result in termination of a company's appointments. Appointments that are terminated due to non-payment of renewal fees may be reinstated upon payment of the renewal fee plus a reinstatement fee which is equal to the renewal fee.

10.16(4) 10.16(5) Effective January 1, 2003, renewal Renewal lists and billing statements will be delivered to in-

surers by electronic means which may include a system administered by the National Association of Insurance Commissioners or its affiliates or subsidiaries. By special arrangement with the division, insurers may complete the appointment renewal process via electronic processes *electronically*. This may include a system administered by the National Association of Insurance Commissioners or its affiliates or subsidiaries.

ITEM 17. Amend renumbered rule 191—10.17(522B) as follows:

191—10.17(522B) Appointment terminations.

10.17(1) When an insurance company terminates its relationship with a producer, the company shall notify the division using the NAIC Uniform Appointment/Termination Form or such other form approved by the division *NIPR Gateway*. Electronic filings must follow the format of the uniform form. The termination must be filed within 30 days of the date the insurer terminated its agency relationship with the producer. The company shall also notify the producer that the producer's appointment has been canceled.

10.17(2) There is no fee for the filing of an appointment termination.

10.17(3) Insurers with 100 or more active appointments on January 1, 2002, will be required to transition their termination filing process to electronic means no later than July 1, 2002. All terminations filed on or after January 1, 2003, must be filed electronically. The division may, for good cause, grant an insurer a waiver or additional time to comply with this subrule.

10.17(4) 10.17(3) The division may adopt special procedures for the filing of termination requests for a group of affiliated insurance companies that comprise a holding company.

10.17(5) 10.17(4) When an insurer terminates an appointment for cause pursuant to 2001 Iowa Acts, Senate File 276, section 28(4) *Iowa Code section 522B.14*, the notification of termination may be filed according to subrule 10.18(4) 10.17(1). The supporting documents required by 2001 Iowa Acts, Senate File 276, section 28(4), *Iowa Code section 522B.14* shall be submitted to the division within ten days of the filing of the notification. The documents shall include a certification by an officer or authorized representative of the insurer.

ITEM 18. Amend renumbered rule 191—10.18(522B) as follows:

191—10.18(522B) Licensing of a business entity.

10.18(1) Application. A business entity may apply for an Iowa insurance license. For purposes of this rule, upon approval of an application by the division, the business entity shall be classified as a producer and shall be subject to all standards of conduct and reporting requirements applicable to producers.

10.18(2) Requirements.

a. To qualify for such a license, the business entity must:

a. (1) File a completed NAIC uniform business entity application through the *NIPR Gateway* or as directed by the division;

b. (2) Designate one officer, owner, partner, or member of the business entity, which person also is a producer licensed by the division, as the person who will have full responsibility for the conduct of all business transactions of the business entity or of insurance producers affiliated with the business entity;

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e. (3) For a nonresident business entity, if the applicant's home state is not actively participating in the producer database, file a current certification of business entity licensure from the insurance commissioner for the business entity's home state or, if the home state does not license business entities, file a request for a waiver of this requirement submit an appropriate request through the NIPR Gateway; and

d. (4) Pay the license fee;

e. Provide the legal or trade name of the business entity and all business names, trade names, service marks, marketing names or other names under which the business entity may operate.

b. The designated responsible producer shall maintain an active Iowa insurance producer license. If the license of the designated responsible producer terminates or lapses for any reason, the business entity must supply the division with a substitute designated responsible producer within ten days. If the business entity does not provide a substitute, the division shall terminate the license, and the entity shall submit a new application.

10.18(3) License term. A business entity license issued under this rule shall be effective for three calendar years and one month, including the year of application; and all business entity licenses shall expire on December 31 of the third calendar year, beginning on the first day of the month of the business entity's formation date and ending with the last day of the month of the business entity's formation date. By arrangement with the division, a business entity may choose a different month for its license term.

10.18(4) License renewal. The division shall mail a renewal notice to the address of the business entity on file with the division on or before December 1 the first day of the month preceding the renewal month. The renewal notice and renewal fee must be received by the division on or before December 31 the license expiration date. By arrangement with the division, renewal notices may be issued and submitted electronically. All nonresident business entities must renew their licenses through the NIPR Gateway or as otherwise directed by the division.

10.18(5) License reinstatement. Business entity licenses may be reinstated by payment of the renewal fee and a \$100 reinstatement fee. Business entities that fail to complete the reinstatement process by January 31 following expiration must submit an application for a new license.

10.18(6) **10.18(5)** Business address. Business entities licensed under this rule must maintain a current business address with the division. If a business entity's address is changed, notification from the designated responsible producer must be submitted to the division within 30 days of the address change, stating:

- a. Name of the business entity;
- b. License number;
- c. Previous address; and
- d. New address.

The notification may be sent by electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available.

10.18(7) **10.18(6)** Business name. A business entity licensed under this rule must keep the division informed of its business name. If a business entity changes the name under which it is operating, notification from the designated responsible producer must be submitted to the division within 30 days of the name change. The notification may be sent by electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available.

ITEM 19. Amend renumbered rule 191—10.19(522B) as follows:

191—10.19(522B) Violations and penalties.

10.19(1) A producer who sells, solicits or negotiates insurance, directly or indirectly, in violation of this chapter shall be deemed to be in violation of 2001 Iowa Acts, Senate File 276, section 16, Iowa Code section 522B.2 and subject to the penalties provided in 2001 Iowa Acts, Senate File 276, section 31 Iowa Code section 522B.17.

10.19(2) A person who sells, solicits or negotiates insurance, directly or indirectly, who is not properly licensed as a producer is subject to the penalties provided in Iowa Code chapter 507A and 2001 Iowa Acts, Senate File 276, section 31 Iowa Code section 522B.17.

10.19(3) Any company or company representative who aids and abets a producer in the above-described violation shall be deemed to be in violation of 2001 Iowa Acts, Senate File 276, section 16, Iowa Code section 522B.2 and subject to the penalties provided in 2001 Iowa Acts, Senate File 276, section 31 Iowa Code section 522B.17.

10.19(4) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty, in accordance with 2001 Iowa Acts, Senate File 276, section 31, Iowa Code section 522B.17 or any combination of actions, for any action listed in 2001 Iowa Acts, Senate File 276, section 25, Iowa Code section 522B.11 and any one or more of the following causes:

a. to c. No change.

d. Taking any action to circumvent the spirit of these rules and the Iowa insurance statutes or any other action that shows noncompliance with the requirements of 2001 Iowa Acts, Senate File 276, Iowa Code chapter 522B or these rules.

10.19(5) In the event that the division denies a request to renew an insurance producer license or denies an application for an insurance producer license, the commissioner shall notify provide written notification to the producer or applicant of the denial or failure to renew in writing, including the reason therefor. The producer or applicant may request a hearing within 30 days of receipt of the notice to determine the reasonableness of the division's action. The hearing shall be held within 30 days of the date of the receipt of the written demand by the applicant and shall be held pursuant to 191—Chapter 3.

10.19(6) The commissioner may suspend, revoke, or refuse to issue the license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the entity and the violation was neither reported to the insurance division nor was corrective action taken.

ITEM 20. Amend renumbered rule 191—10.22(522B) as follows:

191—10.22(522B) Administration of examinations.

10.22(1) The division will enter into a contractual relationship with an outside testing service, in compliance with Iowa law, to provide the licensing examinations for all lines of authority which require an examination.

10.22(2) The outside testing service will administer all examinations for license applicants.

10.22(3) Any contract to implement subrule 10.23(1) 10.22(1) shall require the outside testing service to:

a. to d. No change.

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e. Conform to division guidelines *and Iowa law*, and report to the division on at least a quarterly basis.

ITEM 21. Amend renumbered rule 191—10.23(522B) as follows:

191—10.23(522B) Forms. An original of each form necessary for the producer's licensure, appointment and termination may be requested from the division or downloaded from the NAIC Web site, and the division's Web site (www.iid.state.ia.us) will provide a link to that site. ~~and exact~~ Exact, readable, high-quality copies may be made therefrom. A self-addressed, stamped envelope must be submitted with each request.

ITEM 22. Amend renumbered rule 191—10.24(522B) as follows:

191—10.24(522B) Fees.

10.24(1) Fees may be paid by check or credit card.

10.24(1) 10.24(2) The fee for an examination shall be set by the outside testing service under contract ~~to~~ with the division and approved by the division.

10.24(2) The express processing fee for resident producer license applications shall be set by the outside testing service under contract to the division and approved by the division.

10.24(3) The fee for issuance or renewal of an insurance producer license is \$50 for three years.

10.24(4) The fee for issuance or renewal of a business entity license is \$50 for three years.

10.24(5) The fee for reinstatement of an insurance producer or business entity license is a total of the renewal fee plus \$100.

10.24(6) The fee for issuance of an amended or duplicate license is \$10.

10.24(7) The fee for issuance of a letter of certification is \$5.

10.24(8) 10.24(7) The fee for an appointment or the renewal of an appointment is \$5 for each producer appointed to a domestic company. The fee for appointment or renewal of each producer appointed to a foreign company is the fee charged by the state of domicile.

10.24(9) The total late fee for filing appointment renewals shall be double the renewal fee. The fee to reinstate appointments that were canceled for failure to renew shall be the late fee plus \$100.

10.24(10) 10.24(8) The division may charge a reasonable fee for the compilation and production of producer licensing records.

These rules are intended to implement Iowa Code chapters 252J, and 261, and 2001 Iowa Acts, Senate File 276 522B.

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INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action

to amend Chapter 11, "Continuing Education for Insurance Producers," Iowa Administrative Code.

The rules in Chapter 11 set out the continuing education requirements for insurance producers. The proposed amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners. The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 19, 2006, at 2 p.m. at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapters 505 and 522B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

Amend rules 191—11.1(272C) to 191—11.14(272C) as follows:

191—11.1(272C 505,522B) Statutory authority—purpose—applicability.

11.1(1) These rules are adopted pursuant to the general rule-making authority of the insurance commissioner in Iowa Code chapter chapters 505 and 522B the specific authority in Iowa Code chapter 272C to issue rules establishing establish continuing education requirements for resident and nonresident insurance producers.

11.1(2) No change.

11.1(3) These rules do not apply to:

- No change.
- A resident producer who holds qualification 5 (*surety*), 18 (credit life, accident and health insurance), or 4 (crop insurance) or 19 (legal expense insurance).
- and d. No change.

191—11.2(272C 505,522B) Definitions.

"Annually" means each calendar year between January 1 and December 31.

"Approved subject" or "approved course" means any educational presentation which has been approved by the division.

"Attendance record" means a record on which a CE provider requires attendees of a CE course to sign in at the time of entrance to the course.

"CE" means continuing education as defined in Iowa Code section 272C.1(4) chapter 522B.

"CE provider" means any individual or entity that is approved to offer continuing education courses in Iowa.

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"CE term" means the three-year-one-month period *beginning the first day of the producer's birth month and ending December 31 prior to on the last day of the producer's birth month in the renewal year.*

"Credit" means continuing education credit. One credit is 50 minutes of instruction or reading material in an acceptable topic.

"License" means a document issued by the division which ~~authorizes division's authorization for a person to act as an insurance producer for the authorized lines of insurance specified in such document. The license itself does not provide the producer with any authority to represent or bind an insurance carrier.~~

"Monitor" or "approved monitor" means a CE provider or licensed producer who supervises the conduct of a producer while that producer is completing an examination that is part of a self-study CE course.

"National Insurance Producer Registry" or "NIPR" means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). Its Web site is www.licenseregistry.com.

"NIPR Gateway" means the communication network developed and operated by NIPR that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of producer information regarding license applications, license renewals, appointments and terminations.

"Proctored" or "independently proctored" means the supervision by a CE provider or licensed producer over the conduct of a producer while that producer is completing an examination that is part of a self-study CE course.

"Producer" means a person required to obtain an insurance license under Iowa Code section ~~522.4~~ 522B.1.

"Renewal year" means the third year following the issuance or last renewal of an insurance producer license.

"Resident" means a person residing permanently in Iowa.

"Roster" means a listing of all licensed attendees at an approved course and includes the Iowa course number, the ~~producer license number~~ National Insurance Producer Registry (NIPR) National Producer Number (NPN), the date the course was completed, and the actual number of credits earned by each producer.

"Self-study course" means an educational program that consists of a self-study manual and comprehensive examination. *A self-study course may be an on-line course.*

191—11.3(272C 505,522B) Continuing education requirements for producers.

11.3(1) Effective January 1, 1999, every ~~Every~~ licensed resident producer must complete a minimum of 36 credits for each CE term in courses approved by the division. *Three of these credits must be in the subject of ethics. By the end of the last business day of the producer's CE term, the division must receive from the producer proof of completion of CE courses and payment of the CE fee.*

11.3(2) Producers who accumulated CE credits in basic, life/health or property/casualty courses completed prior to January 1, 1999, may cumulate those credits and apply them toward the next CE term requirement. *A producer who successfully completes an examination for a new license will be deemed to have completed sufficient CE for that subject line of authority for the CE term in which the producer completed the examination.*

11.3(3) No change.

11.3(4) No change.

11.3(5) A producer may receive CE credit for self-study courses. A self-study course is considered completed when

the examination is received by the CE provider.

a. A producer may receive CE credit for self-study courses that are part of a recognized national designation program as described in subrule 11.5(5).

b. A producer may receive up to 18 CE credits for self-study courses during a CE term that do not meet the definition of paragraph "a" if the producer:

(1) ~~Signs a declaration~~ *Submits an affidavit to the CE provider stating that the examination was monitored independently proctored* and was completed without any outside assistance, and

(2) Correctly answers at least 70 percent of the questions presented.

11.3(6) No change.

11.3(7) No change.

11.3(8) A producer may elect to comply with the CE requirements by taking and passing the appropriate licensing examination for each qualification held by the producer. ~~If a producer holds both a personal lines and a commercial lines qualification, the producer shall take and pass only the commercial lines examination. If a producer holds an excess and surplus lines designation, the producer shall take and pass both the commercial lines and the excess and surplus lines examinations. If a producer holds both the accident and health and the life insurance qualification, the producer may take the combined life/health examination. These examinations must be completed prior to the expiration of the producer's license.~~

a. *A producer who holds property and casualty lines of authority (authority numbers 21 and 22) must successfully complete the commercial insurance subject examination.*

b. *A producer who holds an excess and surplus line of authority must successfully complete the examination for the excess and surplus line of authority (authority number 20) and the commercial insurance subject examination.*

11.3(9) *Insurers and producers shall comply with all continuing education guidelines as established by the National Flood Insurance Program (NFIP). Insurers' and producers' records are subject to audit by the division to verify compliance with NFIP requirements.*

11.3(10) *Producers may determine how many CE credits they have in the division's records through the division's Web site: www.iid.state.ia.us.*

191—11.4(272C 505,522B) Proof of completion of continuing education requirements.

11.4(1) No change.

11.4(2) No change.

11.4(3) ~~Waiver or extension.~~ A producer who wishes to receive a waiver or extension of time to complete the CE requirements must file a written request with the division. ~~A waiver or extension will not be issued to a producer unless the division finds that good cause exists. Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the CE term because of a long-term, severe illness or incapacity evidenced by a doctor's certification, or extenuating circumstances.~~

191—11.5(272C 505,522B) Course approval.

11.5(1) No change.

11.5(2) Any approved active CE provider ~~may~~ *shall* submit a request for approval of any course, program of study, or subject for continuing education credit to the division on a *an NAIC uniform form prescribed by the division*. If an outside vendor is retained by the division for course reviews, requests for approval ~~will~~ *shall* be filed directly with the vendor.

INSURANCE DIVISION[191](cont'd)

11.5(3) No change.

11.5(4) Except as provided in subrule 11.5(5), requests for approval shall be submitted at least 30 days prior to the beginning of the course. *A request for renewal of a previously approved course shall be submitted at least 30 days prior to the end of the 24-month approval period.* Requests received later may be disapproved.

11.5(5) No change.

11.5(6) No change.

11.5(7) No change.

11.5(8) No change.

11.5(9) The division may deem the approval of a CE course by another state's insurance division as adequate evidence that a course is eligible for approval in Iowa and award the same number of credits for the course awarded by the other state. *The CE provider must submit the NAIC uniform form demonstrating the other state's approval of the CE course.*

11.5(10) *Within 30 days of course approval, CE providers shall inform the division or its vendor, as directed by the division, of the dates and locations that the course will be offered. Failure to timely file the dates and locations will subject the CE provider to penalty and suspension or rescission of course approval.*

11.5(11) CE courses approved by the division on or after January 1, 1999, may be offered for a 24-month period following the date of approval. ~~CE courses which were approved by the division prior to January 1, 1999, will retain their approved status through May 31, 1999, and will expire on that date if not renewed.~~

191—11.6(272C 505,522B) Topic guidelines.

11.6(1) No change.

11.6(2) No change.

191—11.7(272C 505,522B) CE course renewal. Prior to expiration of the 24-month approval period, a CE provider must apply for renewal of each course with the division or its outside vendor. If a CE provider makes a substantial change to the content of a previously approved course, that course will not be eligible for renewal and must be submitted for a complete review.

191—11.8(272C 505,522B) Appeals. A CE provider may appeal the amount of CE credit awarded by the division for a course. An appeal must be made in writing to the division within 30 days of the receipt by the CE provider of the notice of CE credit awarded for the course. If the division retains an outside vendor for course reviews, a CE provider must first complete an appeal process with the vendor before filing an appeal with the division.

191—11.9(272C 505,522B) CE provider approval.

11.9(1) Any school, insurer, industry association or other organization intending to provide a course, program of study, or subject for continuing education credit must submit an application on a form or in a format prescribed by the division to become an approved CE provider.

11.9(2) No change.

11.9(3) ~~All CE providers that have been approved in Iowa prior to January 1, 1999, will retain their approved status through May 31, 1999. These CE providers must complete a renewal process by May 31, 1999, to be eligible to continue as a CE provider in Iowa. All new applicants for CE providers approved on or after January 1, 1999, will be eligible to submit courses for approval for the next 24-month period.~~

~~Each individual course each CE provider intends to offer must be submitted to and approved by the division. CE provider approval is valid for 24 months.~~

11.9(4) No change.

11.9(5) No change.

191—11.10(272C 505,522B) CE provider's responsibilities.

11.10(1) No change.

11.10(2) No change.

11.10(3) No change.

11.10(4) A CE provider must verify that each examination submitted for a self-study course contains a declaration by an affidavit following the NAIC CE guidelines from the producer and an approved monitor that the examination was independently proctored and that the examination was completed without any outside assistance. A CE provider must refuse to award CE credit to producers who fail to submit a properly completed examination or who fail to correctly answer at least 70 percent of the questions on the examination.

11.10(5) No change.

11.10(6) No change.

11.10(7) No change.

11.10(8) CE providers must submit rosters of all course attendees to the division. These reports must be received at the division by the tenth day of the month following the month in which the course is completed. Rosters shall be submitted in computer disk format or electronically in a manner prescribed by the division.

11.10(9) No change.

11.10(10) No change.

191—11.11(272C 505,522B) Prohibited conduct—CE providers.

11.11(1) No change.

11.11(2) No change.

11.11(3) No change.

11.11(4) No change.

191—11.12(272C 505,522B) Outside vendor. The division may enter into a contractual arrangement with a qualified outside vendor to assist the division with review and renewal of continuing education providers and courses any or all continuing education services. Fees charged by the outside vendor will be subject to division approval and will be paid by the CE provider. Course approval fees are nonrefundable.

191—11.13(272C 505,522B) CE course audits. The division may audit any CE course. The cost of the audit will be charged to the CE provider. Any discrepancies between the materials submitted for approval to the division and the content found at the audit, or any evidence of activity set forth in rule 191—11.11(272C) noncompliance with these rules, may subject the CE provider or instructor to administrative sanctions, including imposition of fines. Governmental bodies, such as community colleges and universities, shall not be charged for the cost of an audit.

191—11.14(272C 505,522B) Fees and costs.

11.14(1) The CE fee that is due with a producer renewal report is \$30.

11.14(2) The fee for a report of a producer's CE credits on file with the division is \$10.

11.14(3) The fees for approval and renewal of CE providers, CE courses and registration of instructors shall be set by the outside vendor retained by the division and are subject to approval by the division.

INSURANCE DIVISION[191](cont'd)

11.14(4-3) The division may charge a fee for other services.

These rules are intended to implement Iowa Code chapter 272C chapters 505 and 522B.

ARC 5363B**INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," Iowa Administrative Code.

The rules in Chapter 20 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The proposed amendments to the rules set forth changes to the procedures intended to make the filing and approval process more efficient. The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 20, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 20, 2006, at 9 a.m. in the office of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapters 515, 515A, 515C, 518, and 518A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 191—20.1(515,515A,515C,518,518A,520) as follows:

191—20.1(515,515A,515C,518,518A,520) General requirements.

20.1(1) All paper filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned *the complete submission*.

20.1(2) Rescinded IAB 8/8/90, effective 9/12/90. *All filings must be submitted in accordance with the instructions posted on the division's Web site: www.iid.state.ia.us.*

20.1(3) If submission is a combination forms and rate filing, the division will retain two copies of the filing for its files. If the company desires a copy of the form stamped "APPROVED" for its own files, a third copy of the filing should be included with the submission.

20.1(4) ~~If more than four forms are submitted for review with one submission, the filing shall contain a separate sheet listing forms by descriptive caption and identifying form number.~~

ITEM 2. Amend rule 191—20.2(515,515A,515C,518,518A,520) as follows:

191—20.2(515,515A,515C,518,518A,520) Filing synopsis Transmittal document and filing schedule.

20.2(1) For residual market mechanisms or ordinary lines of insurance, ~~except workers' compensation each filing must be accompanied by an Iowa filing synopsis sheet, Form No. PC-101, a copy of which is attached* hereto and by reference made a part hereof. If filing includes several policy form submissions, separate synopsis sheets should be prepared for each policy form. If a policy form is filed with several endorsements, endorsement title and identification number may be listed on a separate sheet of paper attached to the synopsis form.~~ *the most recent edition of the applicable National Association of Insurance Commissioners (NAIC) Transmittal Document (form "PC TD-1") and Filing Schedules(s) (form "PC FFS-a, Rates/Rules" or form "PC RDS-1" or both). Detailed instructions are posted on the division's Web site: www.iid.state.ia.us.*

20.2(2) ~~If an identical submission is made by a group on behalf of several member companies, separate synopsis forms shall be prepared a copy of the Transmittal Document and Filing Schedule shall be submitted for each insurance company.~~

20.2(3) Rescinded IAB 8/8/90, effective 9/12/90.

20.2(4-3) Each filing shall indicate the name and, address, telephone number, including area code, fax number and E-mail address of the person or persons at the company who may be contacted regarding the submission.

ITEM 3. Rescind and reserve rule **191—20.3(515,515A,515C,518,518A,520)**.

ITEM 4. Amend rule 191—20.4(515,515C,518,518A,520) as follows:

191—20.4(515,515C,518,518A,520) Policy form filing.

20.4(1) Preliminary filing *Filing of forms may must be made in typed or printer's proof format, provided that they are refiled and approved before use in final printed form. The division will return to the sender any mockup forms which are unreadable illegible because of size of print, clarity of copy, or format of form.*

20.4(2) Each policy form, endorsement, application and agreement modifying the provisions of policies must bear an identification form number. This form number must be in the lower left-hand corner unless uniform or authentic forms are used.

20.4(3) All endorsements, riders and agreements restricting coverage provisions of the policy form previously issued must provide a signature line for acceptance by the named insured.

20.4(4) ~~In addition to the required synopsis form and cover letter, each filing submitted to the insurance division for approval shall be accompanied by a certification of the general counsel or an officer of the submitting company that the policy form is in compliance with the insurance laws of Iowa and these rules.~~

INSURANCE DIVISION[191](cont'd)

20.4(5 4) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.

20.4(6 5) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting a notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.

20.4(7 6) A form filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt.

ARC 5364B**INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 30, "Life Insurance Policies," Iowa Administrative Code.

The rules in Chapter 30 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The proposed amendment to the rules sets forth changes to the procedures intended to make the filing and approval process more efficient. The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 20, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 20, 2006, at 9 a.m. in the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

This amendment is intended to implement Iowa Code chapter 508.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 191—30.5(508) as follows:

191—30.5(508) General filing requirements.

30.5(1) All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned the complete submission.

30.5(2) All filings must be accompanied by a cover letter the most recent edition of the applicable National Association of Insurance Commissioners (NAIC) Transmittal Document (form "LH D-1") and Filing Attachment(s) (form "LH FFA-1, Rates" or form "LH RFA-A" or both) in duplicate which gives the form numbers, titles, effective date of the filing, and a brief identifying description of the forms submitted purpose for the filing must be provided on the transmittal document. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the cover letter applicable space on the forms with an explanation for the changes. The date of home state approval or acknowledgment should be included in the cover letter. Home state approval is a prerequisite to review by the division unless the form will not be used in the state of domicile. Any differences between the filing submitted to Iowa and the filing approved in the domiciliary state should be explained. Detailed instructions are posted on the division's Web site: www.iid.state.ia.us.

30.5(3) A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the cover letter Transmittal Document and Filing Attachment(s) must be submitted in triplicate with two copies of each form for which approval is requested. Detailed instructions are posted on the division's Web site: www.iid.state.ia.us.

30.5(4) Each filing submitted to the insurance division for approval shall be in conformance with the applicable provisions of Iowa Code chapter 508 and be accompanied by a certification of the general counsel or an officer of the submitting company that to the best of their knowledge and belief the policy form is in compliance with the insurance laws of Iowa and these rules.

30.5(5 4) Each filing must be submitted to the division of insurance not less than 60 days prior to the effective date of the filing, unless the 60-day period is waived by the division for good cause. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

30.5(6 5) A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt by the division.

30.5(7 6) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.

30.5(8 7) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending the hearing.

ARC 5362B**INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 35, “Accident and Health Insurance,” Iowa Administrative Code.

The rules in Chapter 35 describe the procedures for filing rates and forms for approval by the Iowa Insurance Division. The proposed amendment to the rules sets forth changes to the procedures intended to make the filing and approval process more efficient. The Division intends that Iowa insurance companies and producers will comply with these rules beginning January 1, 2007.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 20, 2006. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on September 20, 2006, at 9 a.m. in the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

This amendment is intended to implement Iowa Code chapter 509.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 191—35.7(509) as follows:

191—35.7(509) General filing requirements.

35.7(1) All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned the complete submission.

35.7(2) All filings must be accompanied by a cover letter the most recent edition of the applicable *National Association of Insurance Commissioners (NAIC) Transmittal Document* (form “LH TD-1”) and *Filing Attachment(s)* (form “LH FFA-1, Rates” or form “LH RFA-A” or both) in duplicate which gives the form numbers, titles, effective date of the filing and , and a brief identifying description of the forms submitted purpose for the filing must be provided on the transmittal document. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the cover letter applicable space on

the forms with an explanation for the changes. The date of home state approval or acknowledgment should be included in the cover letter. Home state approval is a prerequisite to review by the division unless the form will not be used in the state of domicile. Any differences between the filing submitted to Iowa and the filing approved in the domiciliary state should be explained. Detailed instructions are posted on the division’s Web site: www.iid.state.ia.us.

35.7(3) A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the cover letter *Transmittal Document and Filing Attachment(s)* must be submitted in triplicate with two copies of each form for which approval is requested. Detailed instructions are posted on the division’s Web site: www.iid.state.ia.us.

35.7(4) Each filing submitted to the insurance division for approval shall conform to the applicable requirements of Iowa Code chapter 509 and shall be accompanied by a certification of the general counsel or an officer of the submitting company that to the best of their knowledge and belief the policy form is in compliance with the insurance laws of Iowa and these rules.

35.7(5 4) Each filing must be submitted to the division of insurance not less than 60 days prior to the effective date of the filing. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

35.7(6 5) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.

35.7(7 6) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days’ written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending such hearing.

ARC 5346B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), and 2006 Iowa Acts, House File 2782, section 63, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt new Chapter 28, “Wastewater Treatment Financial Assistance Program,” Iowa Administrative Code.

The purpose of these rules is to provide a process for granting funds to be used to enhance water quality, to assist communities to comply with water quality standards adopted by the Department of Natural Resources and to pay for engi-

IOWA FINANCE AUTHORITY[265](cont'd)

neering or technical assistance for facility planning and design.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on September 22, 2006. Comments should be addressed to Lori Beary, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Lori Beary at (515) 242-4957 or E-mailed to lori.beary@iowa.gov. Persons who wish to comment orally should contact Lori Beary at (515)242-4965.

The Authority will hold a public hearing on September 22, 2006, to receive public comments on these rules. The public hearing will be held at 10 a.m. at the Iowa Department of Economic Development, Main Conference Room, 200 East Grand Avenue, Des Moines, Iowa; telephone (515)242-4700. Public participation will also be available on the Iowa Communications Network (ICN) from remote locations to be announced no later than September 1, 2006, on the Authority's Web site (www.ifahome.com).

Chapter 28 does not provide for waivers. Persons seeking waivers from the rules contained in Chapter 28 may petition the Authority for a waiver in the manner set forth under 265—Chapter 18.

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 63.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 28
WASTEWATER TREATMENT FINANCIAL
ASSISTANCE PROGRAM

265—28.1(81GA, HF2782) Overview.

28.1(1) Statutory authority. The authority to provide financial assistance to communities that must install or upgrade wastewater treatment facilities and systems is provided by 2006 Iowa Acts, House File 2782, section 63. The wastewater treatment financial assistance fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law.

28.1(2) Purpose. The purpose of the program shall be to provide grants to enhance water quality and to assist communities to comply with water quality standards adopted by the department of natural resources. Financial assistance under the program shall be used to install or upgrade wastewater treatment facilities and systems, and for engineering or technical assistance for facility planning and design.

265—28.2(81GA, HF2782) Definitions.

"Authority" or "IFA" means the Iowa finance authority as established by Iowa Code chapter 16.

"Community" means a city, county, sanitary district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of the governmental bodies or corporations acting jointly, in connection with a project.

"Department" or "DNR" means the Iowa department of natural resources.

"Director" means the director of the authority.

"Program" means the wastewater treatment financial assistance program created in 2006 Iowa Acts, House File 2782, section 63.

"Project" means the acquisition, construction, reconstruction, extension, equipping, improvement or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner.

"Recipient" means the entity receiving funds from the program.

"SRF" means the state revolving fund, which is the Iowa water pollution control works and drinking water facilities financing program administered by IFA and DNR.

265—28.3(81GA, HF2782) Project funding.

28.3(1) Recipient eligibility. Communities eligible to apply for assistance shall meet the following criteria:

a. The community qualifies as a disadvantaged community as defined by DNR for the drinking water facilities revolving loan fund established in Iowa Code section 455B.295;

b. The community is required to install or upgrade wastewater treatment facilities or systems due to regulatory activity in response to water quality standards adopted by DNR in calendar year 2006; and

c. The population of the community is less than 3,000.

28.3(2) Project eligibility and priority. Financial assistance is available for the upgrade or installation of wastewater treatment facilities and systems required by the water quality standards adopted by DNR in calendar year 2006. Financial assistance shall be available under the program only for projects for which DNR certifies that completion of the project, or a part of the project, is necessary for the community to meet water quality standards. Priority shall be given to projects in which the program financial assistance is used to obtain financing under the SRF, or is used in connection with other federal or state financing. Priority shall also be given to projects that will provide significant improvement to water quality in the relevant watershed; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund and set forth in 567—Chapter 91.

28.3(3) Applications. Applications will be accepted quarterly on forms developed by IFA and available at www.ifahome.com. Grants will be awarded quarterly. IFA will coordinate with other applicable state or federal financing programs when possible.

28.3(4) Required matching funds. Communities approved for financing shall provide matching moneys in the following amounts:

a. Sewered communities and unsewered incorporated communities with a population of less than 500 shall provide a 5 percent match.

b. Communities with a population of 500 or more but less than 1,000 shall provide a 10 percent match.

c. Communities with a population of 1,000 or more but less than 1,500 shall provide a 20 percent match.

d. Communities with a population of 1,500 or more but less than 2,000 shall provide a 30 percent match.

e. Communities with a population of 2,000 or more but less than 3,000 shall provide a 40 percent match.

28.3(5) Costs. All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed.

28.3(6) Record retention. The recipient shall maintain records that document all costs associated with the project. The recipient shall agree to provide access to these records to the authority. The recipient shall retain such records and doc-

IOWA FINANCE AUTHORITY[265](cont'd)

uments for inspection and audit purposes for a period of three years from the date of the final disbursement of grant funds.

28.3(7) Site access. The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements. After construction, recipients shall also agree to provide the authority and the department periodic access to the project site to ensure it is being operated and maintained as designed.

265—28.4(81GA, HF2782) Termination; rectification of deficiencies; disputes.

28.4(1) Termination. The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director shall establish a repayment schedule for funds already disbursed to the recipient. All terminations shall be in writing.

28.4(2) Rectification of deficiencies. Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified deficiency is rectified. Once the deficiency is corrected, the funds can be released.

28.4(3) Disputes. A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 63.

ARC 5353B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 51, “Game Management Areas,” Iowa Administrative Code.

These amendments are intended to clarify the use of horses on game management areas and to prohibit the use of paintball guns on game management areas. Horses are restricted on game management areas except (1) when used for hunting during open hunting seasons from August 1 to March 1, and (2) for nonorganized pleasure riding between the dates of July 15 and October 1. These amendments allow for limited horse use on game management areas during times that are compatible with the primary management purposes of these lands and without jeopardizing federal funding.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 19, 2006. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be

sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-8664 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on September 27, 2006, at 10 a.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building. At the hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code section 481A.6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **571—51.1(481A)** by adopting the following **new** definition in alphabetical order:

“Horse” means any equine animal, including horses, mules, burros, donkeys, and all llamas or alpacalike animals.

ITEM 2. Amend rule **571—51.3(481A)** by adopting the following **new** subrule:

51.3(2) Use of paintball guns. The use of any item generally referred to as a paintball gun is prohibited on all game management areas.

ITEM 3. Renumber rules **571—51.4(481A)** to **571—51.11(481A)** as **571—51.5(481A)** to **571—51.12(481A)** and adopt the following **new** rule:

571—51.4(481A) Use of horses. Horses are restricted on all game management areas except that horses may be used for hunting during open hunting seasons (August 1 to March 1) and for participants in authorized field trials, unless posted as prohibited. Individual nonorganized pleasure riding is allowed between the dates of July 15 and October 1, unless posted as prohibited. Nonorganized pleasure riding shall be considered to be no more than four individuals riding together. Organized group rides are prohibited except on areas where posted and only on designated trails. Other restrictions apply to state forests, state parks and state recreation areas.

ARC 5352B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 67, “Development and Management of Recreation Trails on State Lands,” Iowa Administrative Code.

This proposed rule making clarifies the expectations for trail users on areas where designated trails exist, incorporates the Department’s policy on trail closure, and updates terminology and definitions.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 19, 2006. Written comments should be directed to linda.depaul@dnr.ia.us or sent to Linda DePaul, Section Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Forestry Bureau at (515)281-5441 or at the Forestry Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on September 27, 2006, at 10 a.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building. At the hearing, persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 455A.5(6).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend **571—Chapter 67** as follows:

CHAPTER 67**DEVELOPMENT AND MANAGEMENT OF
RECREATION TRAILS ON STATE LANDS FORESTS,
PARKS, PRESERVES AND RECREATION AREAS**

571—67.1(456A,461A) Applicability. This chapter is applicable to all state-owned parks, recreation areas, forests, and preserves, game management areas and wildlife areas and public hunting areas under the jurisdiction of the department of natural resources, except those areas under management by a local government entity.

571—67.2(456A,461A) Definitions.

“All-terrain vehicle” means a two or three or four-wheeled motor-driven or human-powered bike designed for all-terrain use including trucks, jeeps a motorized flotation-tire vehicle with not less than three low-pressure tires, but not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 850 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and any other vehicles vehicle registered under Iowa Code chapter 321 321I.

“Areas” “Area” means any park, recreation area, forest, or preserve, game management area, wildlife area or public hunting area under the jurisdiction of the department of natural resources.

“Department” means the department of natural resources (DNR).

“Director” means the director of the department of natural resources or designee.

“Division administrator” means the division administrator of the DNR division responsible for managing the area in question.

“Equestrian” means a horserider or a person who is horseback riding.

“Equestrian hunting permit application” means an application by a hunter wishing to ride off trail to hunt in an area. This application shall include the dates and area and provide a contact number in case of conflicts or questions. Applications will be evaluated for potential user conflicts and the potential for the need to obtain a special event permit pursuant to 571—subrule 61.7(16).

“Horse” means any equine animal, including horses, mules, burros, donkeys, and all llamas or alpacalike animals.

“Incidental use” means riding horses on all areas to travel from designated watering stations to trailheads; leaving a trail to rest; allowing others to pass; participating in an authorized field trial; hunting between the dates of August 1 and March 15; and individual, nonorganized pleasure riding between August 1 and March 15 where no formal trails have been designated, but where riding is permitted, and no more than four individuals are riding together. “Incidental use” also means bicycle riding on permanently established service roads on wildlife management areas where no formal trails have been designated but where riding is permitted and no more than four individuals are riding together.

“Snowmobile” means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice and any vehicle registered under Iowa Code chapter 321G.

571—67.3(456A,461A) Purpose. The purpose of this rule chapter is to establish guidelines for developing and properly managing the use of recreation trails on state parks, recreation areas, forests, and preserves, game management areas, wildlife areas and public hunting areas.

571—67.4(456A,461A) Establishment of trails. Establishment and designation of recreation trails shall not be undertaken until after a plan showing the basic design, location and designated use for any such trail has been prepared. The division administrator director shall approve of all trail plans for areas under the administrator’s supervision, and trails shall follow only those routes designated on the plan.

571—67.5(456A,461A) Designation of recreation trails. All trails shall be designated by the department. Designation shall include an assignment of the use or uses for which each

NATURAL RESOURCE COMMISSION[571](cont'd)

trail is intended. Uses shall be classified as follows: foot traffic, horseback riding, snowmobiling, cross-country skiing, bicycling and multiple-use trails. The intended uses of trails shall be described on signs at appropriate locations within the area, in informational brochures about the area, or on posted notice at the area's headquarters. ~~No trails shall be established for all-terrain vehicles except human-powered bikes.~~

571—67.6(456A,461A) Guidelines for trail location. Trails constructed and designated on any area shall be subject to the following guidelines and ~~no~~ *No new* trail shall be designated or constructed:

1. On any slope where erosion will occur unless measures are taken to permanently control erosion. The measures may include, but not be limited to: water bars, steps, vegetative or crushed stone surfacing and terraces;
2. Through rare or sensitive plant communities, except for trails intended for interpretive purposes and designed for foot traffic only;
3. In locations where wildlife management practices are being carried out that would be negatively affected by trail activity;
4. To pass over archaeological sites, ~~upon or within 50 feet of or adversely affect~~ known archaeological sites eligible for the National Register of Historic Places or known sites not yet evaluated, except for trails intended to lead to a site for interpretive purposes;
5. Where past trail use has resulted in erosion or other environmental damage that would be exacerbated by continued trail use;
6. So as to allow travel through a river, stream or wetland or waterway except at designated crossings.

571—67.7(456A,461A) Control of trail use.

67.7(1) Use of trails may be temporarily limited or suspended by the area manager when use or any natural event has created conditions that will cause the trail to degrade if further use is allowed. Guidelines may include, but are not limited to, the following *considerations*:

- a. ~~After a rainfall event or during thawing of sufficient amount to create significant potential erosion. Precipitation events (e.g., rain, thaws, or flooding that, based on the soils and topography, would present a problem for resource protection or public safety if the trail were to remain open).~~
 - b. ~~When the surface of the trail has eroded more than 6 inches and it is evident that active erosion is occurring. Special events (e.g., events that are large, involve concessionaires, or would otherwise require a special event permit as described in 571—subrule 61.7(16) and would interfere with the safety or enjoyment of other trail users).~~
 - c. ~~When trail use has deviated from the established trailway and is resulting in off-trail impacts. Ecosystem management activities (e.g., scheduled harvests, timber stand improvement, planting, or controlled burns that would temporarily disrupt trail use).~~
 - d. ~~In locations where wildfire has destroyed ground vegetation. Trail construction or repair.~~
 - e. ~~When the volume of use has damaged a trail beyond normal wear. Off-trail use (e.g., vehicle or animal use that has created damage off the actual trail which affects the trail and needs to be corrected).~~
 - f. ~~When conflicts between trail users occur. Conflicts between trail users.~~
 - g. ~~Trail damage/erosion (e.g., overuse, use at the wrong time, or unauthorized vehicle use.)~~
- 67.7(2) to 67.7(4)** No change.

571—67.8(456A,461A) Use of designated trails.

67.8(1) Bicyclists, equestrians and snowmobile operators shall use only trails officially designated and properly signed for such uses. No person riding a horse or bicycle shall leave the designated trailway ~~except for incidental use, as defined in this rule. The area manager may temporarily close an area to incidental use by posting the area; however, no area shall be permanently closed without approval of the director.~~

67.8(2) Unless otherwise prohibited by law, the use of motorized all-terrain vehicles shall be limited to roadways on all areas except as necessary to carry on authorized activities such as area management, agricultural activity, search and rescue operations and special events authorized by the department.

67.8(3) *An area manager may approve off-trail riding by issuing an equestrian hunting permit. Any person or group wishing to request off-trail riding under a special use permit must comply with the following:*

- a. *The sponsor shall submit an application to the area manager where the proposed event is to take place. Application forms shall be furnished by DNR. Submission of an application does not guarantee issuance of a permit.*
- b. *The sponsor shall contact the area manager for current trail conditions prior to the equestrian hunting event. Trail closure policies apply to equestrian hunting permits.*

571—67.9(456A,461A) Existing trails. Trails in use at the time of adoption of this rule shall be reviewed and approved or disapproved by the division administrator within six months of the effective date of this rule. Review and approval or disapproval shall include the preparation and submittal of plans to the division administrator by area managers. The division administrator shall provide a report to the director of trails approved within areas under the administrator's supervision.

These rules are intended to implement Iowa Code sections 455A.5, 456A.24 and 461A.35.

ARC 5348B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, "Fishing Regulations," Iowa Administrative Code.

The proposed amendments modify length limit regulations for walleye at specific lakes, lower the minimum length limit for largemouth bass at Green Valley Lake, and remove the daily bag limit and size restriction for hybrid striped bass in Big Creek Lake.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 25, 2006. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to

NATURAL RESOURCE COMMISSION[571](cont'd)

convey their views orally should contact the Fisheries Bureau at (515)281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be two public hearings as follows:

September 22, 2006 1 p.m.	Wallace State Office Building Fourth Floor Conference Room 502 East 9th Street Des Moines, Iowa
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September 25, 2006 7 p.m.	Clay County Conservation Board Oneota Cabin 420 10th Avenue SE Spencer, Iowa
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At the public hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 482.1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 81.2(2), introductory paragraph, as follows:

81.2(2) Black bass. A 15-inch minimum length limit shall apply on black bass in all public lakes except as otherwise posted. On federal flood control reservoirs, a 15-inch minimum length limit shall apply on black bass at Coralville, Rathbun, Saylorville, and Red Rock. All black bass caught from Lake Wapello, Davis County, and Brown's Lake, Jackson County, must be immediately released alive. ~~A 22-inch minimum length limit shall apply on black bass in Green Valley Lake, Union County.~~ A 12-inch minimum length limit shall apply on black bass in all interior streams, river impoundments, and the Missouri River including chutes and backwaters of the Missouri River where intermittent or constant flow from the river occurs. A 14-inch minimum length limit shall apply to the Mississippi River including chutes and backwaters where intermittent or constant flow from the river occurs. All black bass caught from the following stream segments must be immediately released alive:

ITEM 2. Rescind subrule 81.2(3) and adopt the following new subrule in lieu thereof:

81.2(3) Walleye.

a. Lakes West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar in Dickinson County, and Storm Lake in Buena Vista County. A 17-inch to 22-inch protected-slot length limit shall apply. Walleye less than 17 inches in length and walleye greater than 22 inches in length may be harvested. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

b. Clear Lake, Cerro Gordo County. A 14-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

c. Black Hawk Lake, Sac County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six.

d. Big Creek Lake, Polk County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 20 inches in length may be taken per day.

e. Mississippi River. A 15-inch minimum length limit shall apply. All walleye from 20 inches to 27 inches in length that are caught from Mississippi River Pools 12 through 20 must be immediately released alive. No more than one walleye greater than 27 inches in length may be taken per day from Pools 12 through 20.

ITEM 3. Amend subrule 81.2(12) as follows:

81.2(12) All other fish species.

a. ~~Hybrid striped bass. The daily bag and possession limit for hybrid striped bass (wipers) in Big Creek Lake, Polk County, shall be three and six respectively. The minimum size limit for hybrid striped bass shall be 18 inches.~~

b. Panfish. In all waters of the Mississippi River, the daily bag and possession limit applied individually to crappie, yellow perch and rock bass shall be 25 and 50, respectively. In all waters of the Mississippi River, the daily bag and possession limit applied in the aggregate for bluegill and pumpkinseed and for white bass and yellow bass shall be 25 and 50, respectively.

ARC 5360B

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax,” and Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Iowa Administrative Code.

These amendments are proposed as a result of 2006 Iowa Acts, House Files 2754 and 2759.

Item 1 amends rule 701—42.16(422) to provide that the ethanol blended gasoline tax credit for individual income tax may be claimed even if a taxpayer also claims the E-85 gasoline promotion tax credit.

Item 2 amends subrule 42.16(1) to update the definitions applicable to the ethanol blended gasoline tax credit for individual income tax.

Item 3 adopts new subrule 42.16(3) to provide that the ethanol blended gasoline tax credit for individual income tax is repealed on January 1, 2009, and to update the implementation clause for rule 701—42.16(422).

Item 4 adopts new rule 701—42.31(422) to provide for the E-85 gasoline promotion tax credit for individual income tax.

Item 5 adopts new rule 701—42.32(422) to provide for the biodiesel blended fuel tax credit for individual income tax.

Item 6 amends rule 701—52.19(422) to provide that the ethanol blended gasoline tax credit for corporation income tax may be claimed even if a taxpayer also claims the E-85

REVENUE DEPARTMENT[701](cont'd)

gasoline promotion tax credit. This is similar to the change in Item 1.

Item 7 amends subrule 52.19(1) to update the definitions applicable to the ethanol blended gasoline tax credit for corporation income tax. This is similar to the change in Item 2.

Item 8 adopts new subrule 52.19(3) to provide that the ethanol blended gasoline tax credit for corporation income tax is repealed on January 1, 2009, and to update the implementation clause for rule 701—52.19(422). This is similar to the change in Item 3.

Item 9 adopts new rule 701—52.30(422) to provide for the E-85 gasoline promotion tax credit for corporation income tax. This is similar to the change in Item 4.

Item 10 adopts new rule 701—52.31(422) to provide for the biodiesel blended fuel tax credit for corporation income tax. This is similar to the change in Item 5.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 2, 2006, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 22, 2006.

These amendments are intended to implement Iowa Code sections 422.11C and 422.33 as amended by 2006 Iowa Acts, House File 2754, and 2006 Iowa Acts, House File 2754, sections 40 and 41.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 701—42.16(422), introductory paragraphs, as follows:

701—42.16(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, a retail gasoline dealer may claim an ethanol blended gasoline tax credit against that individual's individual income tax liability. The taxpayer must operate at least one ~~service station~~

~~retail motor fuel site~~ at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more ~~metered motor fuel~~ pumps by the taxpayer in the tax year is ethanol blended gasoline. The tax credit shall be calculated separately for each ~~service station~~ *retail motor fuel site* operated by the taxpayer. The amount of the credit for each eligible ~~service station~~ *retail motor fuel site* is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered motor fuel~~ pumps located at that ~~service station~~ *retail motor fuel site* during the tax year in excess of 60 percent of all gasoline sold and dispensed through ~~metered motor fuel~~ pumps at that ~~service station~~ *retail motor fuel site* during the tax year.

For fiscal years ending in 2002, the tax credit is available for each eligible ~~service station~~ *retail motor fuel site* based on the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered motor fuel~~ pumps located at the taxpayer's ~~service station~~ *retail motor fuel site* from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 43.3(8) has not yet expired.

EXAMPLE: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's ~~service station~~ *retail motor fuel site* during the tax year, 70,000 gallons of which ~~were~~ *was* ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold ~~were~~ *was* ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a \$250 credit available.

The credit may be calculated on Form IA6478. The credit must be calculated separately for each ~~service station~~ *retail motor fuel site* operated by the taxpayer. Therefore, if the taxpayer operates more than one ~~service station~~ *retail motor fuel site*, it is possible that one ~~station~~ *retail motor fuel site* may be eligible for the credit while another ~~station~~ *retail motor fuel site* may not. The credit ~~can~~ *may* be taken only for those ~~service station~~ *retail motor fuel sites* for which more than 60 percent of gasoline sales involve ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

Starting with the 2006 calendar tax year, a taxpayer may claim the ethanol blended gasoline tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 42.31(422) for the same tax year for the same ethanol gallons.

EXAMPLE: A taxpayer sold 200,000 gallons of gasoline at a *retail motor fuel site* in 2006, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer is entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold. Taxpayer may also claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold.

ITEM 2. Amend subrule 42.16(1) as follows:

REVENUE DEPARTMENT[701](cont'd)

42.16(1) Definitions. The following definitions are applicable to this rule:

“Ethanol blended gasoline” means the same as defined in Iowa Code section 452A.2 214A.1 as amended by 2006 Iowa Acts, House File 2754, section 3.

“Gasoline” means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to Iowa Code section 214A.2 that is dispensed through a metered pump any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in Iowa Code section 214A.2.

“Metered Motor fuel pump” means a motor vehicle fuel pump licensed by the department of agriculture and land stewardship pursuant to Iowa Code chapter 214 pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel for sale on a retail basis.

“Retail dealer” means a retail dealer as defined in Iowa Code section 214A.1 who operates a metered pump at a service station person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

“Retail motor fuel site” means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis. For example, tank wagons are considered retail motor fuel sites.

“Sell” means to sell on a retail basis.

“Service station” means each geographic location in this state where a retail dealer sells and dispenses gasoline on a retail basis.

ITEM 3. Amend rule 701—42.16(422) by adding **new** subrule 42.16(3) and amending the implementation clause as follows:

42.16(3) Repeal of ethanol blended gasoline tax credit. The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer’s fiscal year until December 31, 2008.

See 701—subrule 52.19(3) for an example illustrating how this subrule is applied.

This rule is intended to implement 2001 Iowa Acts, chapter 123, section 6, subsection 2, as amended by 2003 Iowa Acts, House File 689 Iowa Code section 422.11C as amended by 2006 Iowa Acts, House File 2754.

ITEM 4. Amend 701—Chapter 42 by adopting the following **new** rule:

701—42.31(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. “E-85 gasoline” means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA135. The credit is calculated by multiplying the total number of E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007 and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents

Calendar year 2012	9 cents
Calendar year 2013	8 cents
Calendar year 2014	7 cents
Calendar year 2015	6 cents
Calendar year 2016	5 cents
Calendar year 2017	4 cents
Calendar year 2018	3 cents
Calendar year 2019	2 cents
Calendar year 2020	1 cent

A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 42.16(422) for the same tax year for the same ethanol gallons.

Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated one retail motor fuel site in 2006 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2006. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2006 tax year.

42.31(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2020. For a retail dealer whose tax year is not on a calendar year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

See 701—subrule 52.30(1) for examples illustrating how this subrule is applied.

42.31(2) Allocation of credit to owners of a business entity. If a taxpayer claiming the E-85 ethanol promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement 2006 Iowa Acts, House File 2754, section 40.

ITEM 5. Amend 701—Chapter 42 by adopting the following **new** rule:

701—42.32(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. “Biodiesel blended fuel” means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of

REVENUE DEPARTMENT[701](cont'd)

diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel fuel to be eligible for the tax credit.

The tax credit equals three cents multiplied by the total number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit.

42.32(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel.

See 701—subrule 52.31(1) for examples illustrating how this subrule is applied.

42.32(2) Allocation of credit to owners of a business entity. If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement 2006 Iowa Acts, House File 2754, section 41.

ITEM 6. Amend rule 701—52.19(422), introductory paragraphs, as follows:

701—52.19(422) Ethanol blended gasoline tax credit. Effective for tax years beginning on or after January 1, 2002, an ethanol blended gasoline tax credit may be claimed against a taxpayer's corporation income tax liability for retail dealers of gasoline. The taxpayer must operate at least one ~~service station retail motor fuel site~~ at which more than 60 percent of the total gallons of gasoline sold and dispensed through one or more ~~metered motor fuel~~ pumps by the taxpayer in the tax

year is ethanol blended gasoline. The tax credit shall be calculated separately for each ~~service station retail motor fuel site~~ operated by the taxpayer. The amount of the credit for each eligible ~~service station retail motor fuel site~~ is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered motor fuel~~ pumps located at that ~~service station retail motor fuel site~~ during the tax year in excess of 60 percent of all gasoline sold and dispensed through ~~metered motor fuel~~ pumps at that ~~service station retail motor fuel site~~ during the tax year.

For fiscal years ending in 2002, the tax credit is available for each eligible ~~service station retail motor fuel site~~ based on the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered motor fuel~~ pumps located at the taxpayer's ~~service station retail motor fuel site~~ from January 1, 2002, until the end of the taxpayer's fiscal year. Assuming a tax period that began on July 1, 2001, and ended on June 30, 2002, the taxpayer would be eligible for the tax credit based on the gallons of ethanol blended gasoline sold from January 1, 2002, through June 30, 2002. For taxpayers having a fiscal year ending in 2002, a claim for refund to claim the ethanol blended gasoline tax credit must be filed before October 1, 2003, even though the statute of limitations for refund set forth in 701—subrule 55.3(5) has not yet expired.

EXAMPLE: A taxpayer sold 100,000 gallons of gasoline at the taxpayer's ~~service station retail motor fuel site~~ during the tax year, 70,000 gallons of which were ethanol blended gasoline. The taxpayer is eligible for the credit since more than 60 percent of the total gallons sold were ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 70,000 less 60,000, or 10,000 gallons. Two and one-half cents multiplied by 10,000 equals a \$250 credit available.

The credit may be calculated on Form IA6478. The credit must be calculated separately for each ~~service station retail motor fuel site~~ operated by the taxpayer. Therefore, if the taxpayer operates more than one ~~service station retail motor fuel site~~, it is possible that one ~~station retail motor fuel site~~ may be eligible for the credit while another ~~station retail motor fuel site~~ may not. The credit ~~can~~ may be taken only for those ~~service station retail motor fuel sites~~ for which more than 60 percent of gasoline sales involve ethanol blended gasoline.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

Starting with the 2006 calendar tax year, a taxpayer may claim the ethanol blended gasoline tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 52.30(422) for the same tax year for the same ethanol gallons.

EXAMPLE: A taxpayer sold 200,000 gallons of gasoline at a retail motor fuel site in 2006, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer is entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold. Taxpayer may also claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold.

ITEM 7. Amend subrule 52.19(1) as follows:

52.19(1) Definitions. The following definitions are applicable to this rule:

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"Ethanol blended gasoline" means the same as defined in Iowa Code section 452A.2 214A.1 as amended by 2006 Iowa Acts, House File 2754, section 3.

"Gasoline" means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to Iowa Code section 214A.2 that is dispensed through a metered pump any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in Iowa Code section 214A.2.

"Metered Motor fuel pump" means a motor vehicle fuel pump licensed by the department of agriculture and land stewardship pursuant to Iowa Code chapter 214 pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel for sale on a retail basis.

"Retail dealer" means a retail dealer as defined in Iowa Code section 214A.1 who operates a metered pump at a service station person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

"Retail motor fuel site" means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis. For example, tank wagons are considered retail motor fuel sites.

"Sell" means to sell on a retail basis.

"Service station" means each geographic location in this state where a retail dealer sells and dispenses gasoline on a retail basis.

ITEM 8. Amend rule 701—52.19(422) by adding **new** subrule 52.19(3) and amending the implementation clause as follows:

52.19(3) Repeal of ethanol blended gasoline tax credit. The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer's fiscal year until December 31, 2008.

EXAMPLE: A taxpayer who is a retail dealer of gasoline has a fiscal year end of April 30, 2009. The taxpayer sold 150,000 gallons of gasoline from May 1, 2008, through December 31, 2008, at the taxpayer's retail motor fuel site, of which 110,000 gallons was ethanol blended gasoline. The number of gallons in excess of 60 percent of all gasoline sold is 110,000 less 90,000, or 20,000 gallons. The taxpayer may claim the ethanol blended gasoline tax credit for the fiscal year ending April 30, 2009, in the amount of \$500, or 20,000 gallons times two and one-half cents.

This rule is intended to implement Iowa Code section 422.33 as amended by 2003 2006 Iowa Acts, House File 689 2754.

ITEM 9. Amend 701—Chapter 52 by adopting the following **new** rule:

701—52.30(422) E-85 gasoline promotion tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of gasoline may claim an E-85 gasoline promotion tax credit. "E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between 70 percent and 85 percent of volume of ethanol, if the formulation meets the standards provided in Iowa Code section 214A.2. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA135. The credit is calculated by multiplying the total number of

E-85 gallons sold by the retail dealer during the tax year by the following designated rates:

Calendar years 2006, 2007 and 2008	25 cents
Calendar years 2009 and 2010	20 cents
Calendar year 2011	10 cents
Calendar year 2012	9 cents
Calendar year 2013	8 cents
Calendar year 2014	7 cents
Calendar year 2015	6 cents
Calendar year 2016	5 cents
Calendar year 2017	4 cents
Calendar year 2018	3 cents
Calendar year 2019	2 cents
Calendar year 2020	1 cent

A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 52.19(422) for the same tax year for the same ethanol gallons.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated one retail motor fuel site in 2006 and sold 200,000 gallons of gasoline, of which 160,000 gallons was ethanol blended gasoline. Of these 160,000 gallons, 1,000 gallons was E-85 gasoline. Taxpayer may claim the E-85 gasoline promotion tax credit on the 1,000 gallons of E-85 gasoline sold during 2006. Taxpayer is also entitled to claim the ethanol blended gasoline tax credit of two and one-half cents multiplied by 40,000 gallons, since this constitutes the gallons in excess of 60 percent of the total gasoline gallons sold for the 2006 tax year.

52.30(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the tax credit on the gallons of E-85 gasoline sold during the year using the designated rates as shown above. Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, can continue to claim the tax credit in the following tax year for any E-85 gallons sold through December 31, 2020. For a retail dealer whose tax year is not on a calendar year basis and who did not claim the E-85 credit on the previous return, the dealer may claim the credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

EXAMPLE: A taxpayer who is a retail dealer of gasoline has a fiscal year ending March 31, 2009. The taxpayer sold 2,000 gallons of E-85 gasoline for the period from April 1, 2008, through December 31, 2008, and sold 500 gallons of E-85 gasoline for the period from January 1, 2009, through March 31, 2009. The taxpayer is entitled to a total E-85 gasoline promotion tax credit of \$600 for the fiscal year ending March 31, 2009, which consists of a \$500 credit (2,000 gallons multiplied by 25 cents) for the period from April 1, 2008, through December 31, 2008, and a credit of \$100 (500 gallons multiplied by 20 cents) for the period from January 1, 2009, through March 31, 2009.

EXAMPLE: A taxpayer who is a retail dealer of gasoline has a fiscal year ending April 30, 2006. The taxpayer sold 800 gallons of E-85 gasoline for the period from January 1, 2006, through April 30, 2006. The taxpayer is entitled to claim an E-85 gasoline promotion tax credit of \$200 (800 gallons times 25 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006. In lieu of claiming the credit on the return for the period ending April 30, 2006, the taxpayer can claim the E-85 gasoline promotion tax credit

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on the tax return for the period ending April 30, 2007, including all E-85 gallons sold for the period from January 1, 2006, through April 30, 2007.

52.30(2) Allocation of credit to owners of a business entity. If a taxpayer claiming the E-85 gasoline promotion tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by 2006 Iowa Acts, House Files 2754 and 2759.

ITEM 10. Amend 701—Chapter 52 by adopting the following new rule:

701—52.31(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel fuel to be eligible for the tax credit.

The tax credit equals three cents multiplied by the total number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit.

52.31(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to

December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending April 30, 2006. The taxpayer sold 60,000 gallons of diesel fuel for the period from May 1, 2005, through April 30, 2006, of which 28,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through April 30, 2006, the taxpayer sold 20,000 gallons of diesel fuel, of which 12,000 gallons was biodiesel blended fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$360 (12,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006, since more than 50 percent of all diesel fuel sold during the period from January 1, 2006, through April 30, 2006, was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending June 30, 2006. The taxpayer sold 80,000 gallons of diesel fuel for the period from July 1, 2005, through June 30, 2006, of which 42,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through June 30, 2006, the taxpayer sold 40,000 gallons of diesel fuel, of which 19,000 gallons was biodiesel blended fuel. The taxpayer is not entitled to claim the biodiesel blended fuel tax credit on the taxpayer's Iowa income tax return for the period ending June 30, 2006, since less than 50 percent of all diesel fuel sold during the period from January 1, 2006, through June 30, 2006, was biodiesel blended fuel, even though more than 50 percent of all diesel fuel sold during the period from July 1, 2005, through June 30, 2006, was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, 2012. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, 2011, through February 28, 2012, of which 60,000 gallons was biodiesel blended fuel. For the period from March 1, 2011, through December 31, 2011, the taxpayer sold 85,000 gallons of diesel fuel, of which 50,000 gallons was biodiesel fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$1,500 (50,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending February 12, 2012, since the credit is computed only on gallons sold through December 31, 2011.

52.31(2) Allocation of credit to owners of a business entity. If a taxpayer claiming the biodiesel blended fuel tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 422.33 as amended by 2006 Iowa Acts, House File 2754.

ARC 5357B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

These rules are proposed as a result of 2006 Iowa Acts, Senate File 2402.

Item 1 proposes new rule 701—42.33(422) to provide for an individual income tax credit for costs incurred by an electric utility for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

Item 2 proposes new rule 701—52.32(422) to provide for a corporation income tax credit for costs incurred by an electric utility for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

The proposed rules will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed rules may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 2, 2006, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed rules on or before September 19, 2006. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 22, 2006.

These rules are intended to implement 2006 Iowa Acts, Senate File 2402.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following rules are proposed.

ITEM 1. Amend 701—Chapter 42 by adopting the following **new** rule:

701—42.33(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, 2008, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

42.33(1) Eligibility requirements for the tax credit. All of the following conditions must be met for the electric utility to qualify for the soy-based transformer fluid tax credit.

a. The costs must be incurred after June 30, 2006, and before January 1, 2008.

b. The costs must be incurred in the first 18 months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

c. The soy-based transformer fluid must be dielectric fluid that contains at least 98 percent soy-based products.

d. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based transformer fluid used in the transition.

e. The number of gallons used in the transition must not exceed 20,000 gallons per electric utility, and the total number of gallons eligible for the credit must not exceed 60,000 gallons in the aggregate.

f. The electric utility shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based transformer fluid which are deductible for federal income tax purposes.

42.33(2) Applying for the tax credit. An electric utility must apply to the department for the soy-based transformer fluid tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is claimed. The application must include the following information:

a. A copy of the signed purchase agreement or other agreement to purchase soy-based transformer fluid.

b. The number of gallons of soy-based transformer fluid purchased during the tax year, along with the cost per gallon of each purchase made during the tax year.

c. The name, address, and tax identification number of the electric utility.

d. The type of tax for which the credit will be claimed, and the first year in which the credits will be claimed.

e. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro-rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

42.33(3) Claiming the tax credit. After the application is reviewed, the department will issue a tax credit certificate to the electric utility. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. Once the tax credit certificate is issued, the credit

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may be claimed only against the type of tax reflected on the certificate. If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing; and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement 2006 Iowa Acts, Senate File 2402.

ITEM 2. Amend 701—Chapter 52 by adopting the following new rule:

701—52.32(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, 2008, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

52.32(1) Eligibility requirements for the tax credit. All of the following conditions must be met for the electric utility to qualify for the soy-based transformer fluid tax credit.

a. The costs must be incurred after June 30, 2006, and before January 1, 2008.

b. The costs must be incurred in the first 18 months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

c. The soy-based transformer fluid must be dielectric fluid that contains at least 98 percent soy-based products.

d. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based transformer fluid used in the transition.

e. The number of gallons used in the transition must not exceed 20,000 gallons per electric utility, and the total number of gallons eligible for the credit must not exceed 60,000 gallons in the aggregate.

f. The electric utility shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based transformer fluid which are deductible for federal income tax purposes.

52.32(2) Applying for the tax credit. An electric utility must apply to the department for the soy-based transformer fluid tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is claimed. The application must include the following information:

a. A copy of the signed purchase agreement or other agreement to purchase soy-based transformer fluid.

b. The number of gallons of soy-based transformer fluid purchased during the tax year, along with the cost per gallon of each purchase made during the tax year.

c. The name, address, and tax identification number of the electric utility.

d. The type of tax for which the credit will be claimed, and the first year in which the credits will be claimed.

e. If the application is filed by a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, a list of the partners, members, shareholders or beneficiaries of the entity. This list shall include the name, address, tax identification number and pro-rata share of earnings from the entity for each of the partners, members, shareholders or beneficiaries.

52.32(3) Claiming the tax credit. After the application is reviewed, the department will issue a tax credit certificate to the electric utility. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. Once the tax credit certificate is issued, the credit may be claimed only against the type of tax reflected on the certificate. If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing; and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A).

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

This rule is intended to implement 2006 Iowa Acts, Senate File 2402.

ARC 5358B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and sections 421.14, 425.8, 426A.7, and 437A.25, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 70, “Replacement Tax and Statewide Property Tax,” Chapter 71, “Assessment Practices and Equalization,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Item 1 amends rule 701—70.12(437A) to allow a reimbursement of replacement tax paid to electric utilities for the costs incurred in the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

Item 2 amends subrule 71.21(2) to require that the secretary of the property assessment appeal board be notified if the board's decision is protested to district court by the taxpayer.

Item 3 amends subrule 71.21(4) to provide that members of the property assessment appeal board are state employees.

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Item 4 amends the implementation clause for rule 701—71.21(421).

Item 5 amends rule 701—71.22(428,441) by adding a new subrule to require the assessor to notify the school district if a protest is filed against an assessment of property valued at \$5 million or more.

Item 6 amends the implementation clause for rule 701—71.22(428,441).

Item 7 amends subrule 80.1(2), paragraph “k,” to allow a homestead property tax credit to the owner of a home if the land is owned by a community land trust and the homeowner is a member of the community land trust.

Item 8 amends the implementation clause for rule 701—80.1(425).

Item 9 amends subrule 80.2(2), paragraph “c,” to change the time period a veteran must have served in the armed forces to be eligible for the military service property tax exemption from two years to 18 months.

Item 10 amends the implementation clause for rule 701—80.2(22,35,426A).

Item 11 amends subrule 80.3(7) to list the materials that may be used in order for a property tax exemption to be allowed on property used for recycling purposes.

Item 12 amends the implementation clause for rule 701—80.3(427).

Item 13 amends subrule 80.4(11) to permit vacant units in low-rent housing projects owned by nonprofit organizations recognized as such by the Internal Revenue Service and property under construction by such organizations to qualify for a property tax exemption.

Item 14 amends rule 701—80.19(427) to allow a tax exemption on apartment buildings owned by a 501(c)(3) nonprofit community development organization in cities with a population of more than 110,000.

Item 15 amends rule 701—80.21(368) to require that all property owners in an annexed area receive a tax exemption if the city council has elected to grant an exemption in the area.

Item 16 amends 701—Chapter 80 by adding the following: (1) new rule 701—80.23(427A) to exempt from taxation machinery, equipment, and fixtures at concrete batch plants and hot mix asphalt facilities; (2) new rule 701—80.24(427) to exempt from taxation airport property owned by a city or county and leased to an operator providing aeronautical services to the public; and (3) new rule 701—80.25(427A) to exempt car wash equipment from taxation.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 2, 2006, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 22, 2006.

With the exception of Item 13, these amendments are intended to implement 2006 Iowa Acts, Senate Files 2391 and 2402, and House Files 2633, 2751, 2792, 2794, and 2797. Item 13 establishes a policy regarding tax exemptions for vacant units in low-rent housing projects.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 701—70.12(437A) as follows:

701—70.12(437A) Collections/reimbursements. Neither the director nor the department is empowered to receive any payment of replacement tax. Therefore, taxpayers should never pay any replacement tax to the director or the state of Iowa. All payments of replacement tax are to be made to the appropriate county treasurer.

70.12(1) A person in possession of a renewable energy tax credit certificate issued pursuant to Iowa Code Supplement sections 476C.1 to 476C.7 may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in renewable energy tax credit certificates pursuant to Iowa Code Supplement sections 476C.1 to ~~475C.7~~ 476C.7. To obtain the reimbursement, the person shall attach to the return required under Iowa Code section 437A.8 the renewable energy tax credit certificates issued to the person pursuant to Iowa Code Supplement sections 476C.1 to 476C.7 and provide any other information the director may require. The director shall direct that a warrant be issued to the person for an amount equal to the tax imposed and paid by the person. Any credit in excess of the person's tax liability may be claimed as a refund for the following seven years.

70.12(2) A person in possession of a soy-based transformer fluid tax credit certificate issued pursuant to 2006 Iowa Acts, Senate File 2402, section 7, may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in soy-based transformer fluid tax credit certificates issued pursuant to 2006 Iowa Acts, Senate File 2402, section 7. To obtain the reimbursement, the person shall attach to the return required under Iowa Code section 437A.8 the soy-based transformer fluid tax credit certificates issued to the person pursuant to 2006 Iowa Acts, Senate File 2402, section 7, and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to Iowa Code chapter 437A but for not more than the amount of the soy-based transformer fluid tax credit certifi-

REVENUE DEPARTMENT[701](cont'd)

ates attached to the return. This rule is repealed December 31, 2008.

This rule is intended to implement Iowa Code Supplement section 437A.17B and 2006 Iowa Acts, Senate File 2402, section 4.

ITEM 2. Amend subrule **71.21(2)** by adding the following new paragraph “**h**”:

h. If an appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the board within 20 days after the letter of disposition of the appeal by the board is postmarked to the appellant.

ITEM 3. Amend subrule 71.21(4) as follows:

71.21(4) Compensation. The members of the property assessment appeal board shall receive compensation from the state commensurate with the salary of a district judge. The members of the board shall ~~not~~ be considered state employees for purposes of salary and benefits and are ~~not~~ subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. ~~This includes, for example, IPERS, vacation, sick leave, death benefits, health insurance, dental insurance, and life insurance.~~ Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

ITEM 4. Amend rule **701—71.21(421)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement section 421.1A *as amended by 2006 Iowa Acts, House File 2797, and section 441.38 as amended by 2006 Iowa Acts, House File 2794.*

ITEM 5. Amend rule 701—71.22(428,441) by adding the following new subrule:

71.22(3) Notice of protest. If a protest or appeal is filed with the board of review, property assessment appeal board, or district court against the assessment of property valued at \$5 million or more, the assessor shall provide notice to the school district in which the property is located within ten days of the filing of the protest or the appeal, as applicable.

ITEM 6. Amend rule **701—71.22(428,441)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 428 *as amended by 1997 Iowa Acts, House File 266, and Iowa Code chapter 441 as amended by 2006 Iowa Acts, House File 2794.*

ITEM 7. Amend subrule **80.1(2)**, paragraph “**k**,” as follows:

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. 82-4-9) This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B *or a person owning a homestead dwelling on land owned by a community land trust pursuant to 42 U.S.C. Section 12773.*

ITEM 8. Amend rule **701—80.1(425)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 425 *as amended by 2002 2006 Iowa Acts, House File 2622 2794.*

ITEM 9. Amend subrule **80.2(2)**, paragraph “**c**,” as follows:

c. Former members of the United States armed forces, including members of the Coast Guard, who were on active

duty for less than ~~three years~~ *18 months* must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code *Supplement* section 35.1. If former members were on active duty for at least ~~three years~~ *18 months*, it is not necessary that their service be performed during one of the war or conflict time periods. Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty if the service was performed during one of the war or conflict time periods, *nor is there a minimum number of days a former member of the armed forces of the United States must have served on active duty if the person was honorably discharged because of a service-related injury sustained while on active duty.*

Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years. Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

ITEM 10. Amend rule **701—80.2(22,35,426A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and ~~Supplement~~ chapter 426A *as amended by 2005 Iowa Acts, chapter 115, and 2006 Iowa Acts, House File 2751.*

ITEM 11. Amend subrule 80.3(7) as follows:

80.3(7) No exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state or that the primary use of the property is for recycling. *Recycling property is property used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, or waste wood products into new raw materials or products composed primarily of recycled material.*

ITEM 12. Amend rule **701—80.3(427)**, implementation clause, as follows:

This rule is intended to implement Iowa Code *Supplement* subsection 427.1(19) *as amended by 2006 Iowa Acts, House File 2633.*

ITEM 13. Amend subrule 80.4(11) as follows:

80.4(11) ~~If only~~ a portion of a structure is used to provide low-rent housing units to ~~the elderly persons~~ and persons with disabilities ~~and the other portion is used to provide housing to persons who are not elderly or disabled~~, the exemption for the property on which the structure is located shall be limited to that portion of the structure ~~so used to provide housing to the elderly and disabled~~. *Vacant units and projects under construction that are designated for use to provide housing to elderly and disabled persons shall be considered as being used to provide housing to elderly and disabled persons.* The valuation exempted shall bear the same relationship to the total value of the property as the area of the structure used to provide low-rent housing for the elderly and persons with disabilities bears to the total area of the structure unless a better method for determining the exempt valuation

REVENUE DEPARTMENT[701](cont'd)

is available. The valuation of the land shall be exempted in the same proportion.

ITEM 14. Amend rule 701—80.19(427) as follows:

701—80.19(427) Dwelling unit property within certain cities. Dwelling unit property owned and managed by a nonprofit *community housing development* organization that owns and manages more than 40 150 dwelling units in a city with a population of more than 110,000 which has a public housing authority that does not own or manage housing stock for purposes of low-rent housing is exempt from tax. *The organization must be recognized by the state and the federal government pursuant to criteria contained in the HOME program of the federal National Affordable Housing Act of 1990 and must be exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.* The exemption does not extend to dwelling units located outside the city. *The organization must file an application for exemption with the assessing authority not later than February 1 of the assessment year. Applications for exemption are not required in successive years if the property continues to qualify for the exemption.*

This rule is intended to implement Iowa Code Supplement section 427.1(21A) as amended by 2006 Iowa Acts, House File 2792.

ITEM 15. Amend rule 701—80.21(368) as follows:

701—80.21(368) Annexation of property by a city. A city council may provide a partial tax exemption from city taxes against annexed property for a period of ten years. The exemption schedule is contained in Iowa Code Supplement section 368.11(3)“m.” *All property owners included in the annexed area must receive the exemption if the city elects to allow the exemption.*

This rule is intended to implement Iowa Code Supplement section 368.11(3)“m” as amended by 2006 Iowa Acts, House File 2794.

ITEM 16. Amend 701—Chapter 80 by adding the following **new** rules:

701—80.23(427A) Concrete batch plants and hot mix asphalt facilities. A concrete batch plant includes the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete. A hot mix asphalt facility is any facility used to manufacture hot mix asphalt by heating and drying aggregate and mixing it with asphalt cements. These facilities shall not be assessed and taxed as real property regardless of the property's attachment to real estate. The land on which the facilities are located is taxable.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, Senate File 2391.

701—80.24(427) Airport property. Property owned by a city or county at an airport and leased to a fixed base operator providing aeronautical services to the public is exempt from taxation.

This rule is intended to implement Iowa Code section 427.1(2) as amended by 2006 Iowa Acts, House File 2794.

701—80.25(427A) Car wash equipment. Property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

This rule is intended to implement Iowa Code section 427A.1 as amended by 2006 Iowa Acts, House File 2794.

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REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 421.17(19), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

These amendments are proposed based on 2004 Iowa Acts, chapter 1073.

Item 1 amends Chapter 86 to change all references to “Iowa Department of Revenue and Finance” to “Iowa Department of Revenue.”

Item 2 amends 701—subrule 86.2(1) by adding new paragraphs “c” and “d” to implement 2004 Iowa Acts, chapter 1073. The new paragraphs provide that estates that do not have an Iowa inheritance or estate tax due are not required to file an Iowa inheritance tax return if specific criteria are met. In addition, these paragraphs set forth the procedures relating to the transfer of real property of an estate by the filing of an affidavit on behalf of an estate when no Iowa inheritance tax return is due or a tax clearance is issued.

Item 3 amends rule 701—86.9(450) to implement 2004 Iowa Acts, chapter 1073, which provides that, effective for estates with decedents dying on or after July 1, 2004, the time period in which the Department has to obtain an appraisal of real property is now 60 days instead of 30 days from the date the return is filed with the Department.

Item 4 amends subrule 86.14(7) by adding new unnumbered paragraphs to implement 2004 Iowa Acts, chapter 1015, and 2005 Iowa Acts, chapter 38, regarding procedures for filing a disclaimer of interest in an estate for estates with decedents dying on or after July 1, 2004.

The amendments also update the implementation clauses.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 2, 2006, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006. Such written comments should be directed

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to the Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 22, 2006.

These amendments are intended to implement Iowa Code sections 450.22, 450.37, 450.53, 450.58, 450.94, and 633.901 to 633.917.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend 701—Chapter 86 by striking “Iowa Department of Revenue and Finance” and “department of revenue and finance” and inserting “Iowa Department of Revenue” or “department of revenue.”

ITEM 2. Amend rule 701—86.2(450) as follows:

Amend subrule **86.2(1)** by adding the following new paragraphs “c” and “d”:

c. Who is not required to file a return for estate of decedents dying on or after July 1, 2004. Effective for estates with decedents dying on or after July 1, 2004, if an estate has no Iowa inheritance tax due and there is no obligation for the estate to file a federal estate tax return, even though real estate is involved, an Iowa inheritance tax return need not be filed if one of the following situations is applicable:

(1) All estate assets are held solely in joint tenancy with right of survivorship between husband and wife alone; or

(2) All estate assets are held solely in joint tenancy with right of survivorship, and not as tenants in common, solely between the decedent and individuals listed in Iowa Code section 450.9 as individuals that are entirely exempt from Iowa inheritance tax; or

(3) All assets are passing by beneficiary designation pursuant to a trust and are intended to pass the decedent's property at death or through a nonprobate transfer solely to individuals listed in Iowa Code section 450.9 who are statutorily exempt from Iowa inheritance tax on shares received from a decedent based on their relationship to the decedent. The entire amount of property, interest in property, and income passing solely to the surviving spouse and to parents, grandparents, great-grandparents, and other lineal ascendants, to children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants is exempt from tax; or

(4) All estate assets are passed by will or intestate succession as set forth in Iowa Code chapter 633, division IV, and beginning with section 633.210, solely to individuals who are statutorily exempt from Iowa inheritance tax as set forth above in subsection (3).

Paragraph 86.2(1)“c” does not apply to interests in an asset or assets that pass to both an individual listed in Iowa Code section 450.9 and that individual's spouse.

d. General rules. An Iowa inheritance tax return must be filed if estate assets pass to both an individual listed in Iowa Code section 450.9 and that individual's spouse.

(1) If an inheritance tax return is not required because the estate meets the criteria in paragraph 86.2(1)“c,” the final report (beginning with Iowa Code section 633.469) need not contain an inheritance tax receipt (clearance) issued by the department, but must properly certify that one of the criteria set forth in paragraph 86.2(1)“c” has been met as set forth in Iowa Code section 450.58(2).

(2) If any interest in real estate passes on account of the decedent's death and no Iowa inheritance tax return is required to be filed and the real estate does not pass through probate administration, then one of the persons succeeding to the interest in the real property must file an affidavit in the county in which the real property is located setting forth the legal description of the real property and the fact that an Iowa inheritance tax return is not required to be filed with the department. A copy of this affidavit must also be filed with the department with a schedule showing the value of the property for the purpose of ascertaining the basis of the property.

(3) If a return is filed with the department and the return is not required to be filed, the department will retain the return as required by statutes governing retention of returns. However, the department will not process the filed return if the statute does not require that the return be filed. The department will not issue a clearance in an estate in which a return is not required to be filed.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 421.14, 450.4 as amended by 2001 Iowa Acts, Senate File 523, section 1, 450.5, 450.6, 450.9, 450.22, 450.44, 450.46, 450.47, 450.51, 450.52, 450.53, 450.58, 450.63, and 450.94 and 2004 Iowa Acts, chapter 1073, and 2005 Iowa Acts, chapter 14.

ITEM 3. Amend rule 701—86.9(450), introductory paragraph, as follows:

701—86.9(450) Market value in the ordinary course of trade. Fair market value of real or personal property is established by agreement or the appraisal and appeal procedures set forth in Iowa Code section 450.37 and 701—subrules 86.9(1) and 86.9(2). If the value is established by agreement, the agreement may be to accept the values of such property as submitted on the Iowa inheritance tax return, to accept a negotiated value or to accept the values as finally determined for federal estate tax purposes. Values submitted on an inheritance tax return constitute an offer regarding the value of the property by the estate. An inheritance tax clearance that is issued based upon property values submitted on an inheritance tax return constitutes an acceptance of those values on that return. An agreement to accept negotiated values or accept values as finally determined for federal estate tax purposes must be an agreement between the department of revenue and finance, the personal representative, and the persons who have an interest in the property. If an agreement cannot be reached regarding the valuation of real property, then the department may request, within 30 days after the return is filed, an appraisal pursuant to Iowa Code sections 450.37 and 450.27 and 701—subrule 86.9(2). *Effective for estates with decedents dying on or after July 1, 2004, if an agreement cannot be reached regarding the valuation of real property, then the department may request, within 60 days after the return is filed with the department, an appraisal pursuant to Iowa Code sections 450.37 and 450.27 and subrule 86.9(2).* If an appraisal is not requested within the required period, then the value listed on the return is the agreed value of the real property. If an agreement cannot be reached regarding the valuation of personal property, the personal representative or any person interested in the personal property may appeal for

REVENUE DEPARTMENT[701](cont'd)

a revision of the department's value as set forth in Iowa Code section 450.37 and 701—subrule 86.9(2). Any inheritance tax clearance granted by the department may be subject to revision based on federal audit adjustments. Absent an agreement to the contrary, the six-month extension of the statute of limitations for assessing Iowa inheritance tax based on federal audit adjustments is limited to federal audit adjustments that directly affect Iowa inheritance tax and involve Iowa inheritance tax law that incorporates Internal Revenue Code provisions—see Iowa Code section 450.94(5) and *Kelly-Springfield Tire Co. v. Iowa State Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

ITEM 4. Amend rule 701—86.14(450) as follows:
Amend subrule 86.14(7) as follows:

86.14(7) Disclaimer. A person who is to succeed to real or personal property may refuse to take the property by executing a binding disclaimer which relates back to the date of transfer. Unless the transferor of the property has otherwise provided, disclaimed property passes as if the disclaimant has predeceased the transferor. To be valid, a disclaimer must be in writing and state the property, interest or right being disclaimed, the extent the property, right, or interest is being disclaimed, and be signed and acknowledged by the disclaimant. The disclaimer must be received by the transferor or the transferor's fiduciary not later than nine months after the later of the date in which the property, interest or right being disclaimed was transferred or the date the disclaimant reaches 18 years of age. A disclaimer is irrevocable from the date of its receipt by the transferor or the transferor's fiduciary. For additional details regarding disclaimers, please see Iowa Code section 633.704 Supplement chapter 633E.

Effective for estates with decedents dying on or after July 1, 2004, disclaimers are to be filed in compliance with the Iowa uniform disclaimer Act, Iowa Code Supplement chapter 633E. This Act sets forth new requirements for valid disclaimers. Criteria will be based on the type of property or the interest being disclaimed. General criteria for disclaimers have not changed. To be valid, a disclaimer must be in writing or be stored in electronic record or other medium that is retrievable, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be filed. A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest in property of the estate.

A disclaimer becomes irrevocable when it is delivered, filed, or when it becomes effective, whichever occurs later. Delivery of a disclaimer may generally be made by personal delivery, first-class mail, or any other method likely to result in its receipt. However, specific interests being disclaimed require specific means of delivery. For explicit information regarding delivery of a disclaimer based on interest being disclaimed, see Iowa Code Supplement section 633E.12.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code chapter 450, Iowa Code Supplement chapter 633E, and 2005 Iowa Acts, chapter 38.

ARC 5355B

SAVINGS AND LOAN DIVISION[197]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 527.11, the Savings and Loan Division of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 14, “Electronic Transfer of Funds,” Iowa Administrative Code.

The amendments update existing rules to permit greater acceptance of debit cards at merchant locations.

Interested persons may make written comments on the proposed amendments on or before September 19, 2006. Such written material should be directed to the Superintendent of Savings and Loan Associations, c/o Iowa Division of Banking, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. Persons who want to convey their views orally should contact the Superintendent of Savings and Loan Associations, Department of Commerce, at (515)281-4014.

These amendments are intended to implement Iowa Code sections 17A.3 and 527.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **197—14.2(524)**, definition of “front-end processor,” to read as follows:

“Front-end processor” means a data processing device directly connected to a satellite terminal which is utilized in an electronic funds transfer system in conjunction with only one transaction authorization computer which is capable of authorizing or rejecting transactions initiated at the satellite terminal through verification of customer account data maintained at the authorization computer by only those financial institutions which are exclusively served by the front-end processor and authorization computer. A front-end processor and authorization computer which are directly connected constitute a single data processing center, as defined by Iowa law, only if the specified conditions are satisfied. All satellite terminal transactions received by the front-end processor of the data processing center which cannot be immediately authorized or rejected by the data processing center's authorization computer must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9). All satellite terminal transactions received by the front-end processor of the data processing center which are capable of being immediately authorized or rejected by that data processing center's authorization computer must be transactions initiated by cardholders of financial institutions directly serviced by that data processing center and must be immediately authorized or rejected by the data processing center facility directly connected to an on-line point-of-sale terminal, as defined by Iowa law, which is utilized in an electronic funds transfer system in conjunction with another data processing facility that

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is certified by an approved central routing unit. A front-end processor and certified data processing facility that are directly connected constitute a single data processing center, as defined by Iowa law, only if the following specified conditions are satisfied: (1) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility that cannot be immediately authorized or rejected by the certified data processing facility must be immediately transmitted to an approved central routing unit, subject to the exceptions expressed in Iowa Code subsection 527.5(9); and (2) All on-line point-of-sale satellite terminal transactions received by the front-end processor of the certified data processing facility which are capable of being immediately authorized or rejected by the certified data processing facility must be transactions initiated by cardholders of financial institutions directly serviced by the certified data processing facility and must be immediately authorized or rejected by the certified data processing facility.

ITEM 2. Amend subrule 14.4(3), introductory paragraph, to read as follows:

14.4(3) Certification processes of a central routing unit to demonstrate compliance. To assist the administrators with compliance examinations of a central routing unit, a central routing unit shall certify financial institutions, satellite terminals located in the state, and data processing centers directly connected to satellite terminals *the central routing unit* located in this state or directly connected to cardholder financial institutions, to demonstrate that satellite terminals located in this state and the central routing unit are performing in accordance with the requirements of Iowa Code sections 527.5 and 527.9.

ITEM 3. Rescind and reserve subparagraph **14.4(3)“b”(4)**.

ITEM 4. Amend subparagraph **14.4(3)“b”(5)** to read as follows:

(5) If a satellite terminal located in the state is not directly connected to an approved central routing unit, then the satellite terminal must be directly connected to a data processing center which is directly connected to an approved central routing unit. A data processing center or central routing unit is directly connected to a satellite terminal when a transaction transmission from the satellite terminal is received by the data processing center or central routing unit prior to being received or processed by or routed to any other data processing center or facility which categorizes, separates or routes the transaction transmission. *A data processing facility certified by a central routing unit and a front-end processor directly connected to an on-line point-of-sale satellite terminal and directly linked to the data processing facility both constitute a data processing center for purposes of this paragraph.*

ITEM 5. Amend subrule 14.5(1) to read as follows:

14.5(1) Approval required. A satellite terminal shall not be established or operated in the state of Iowa unless written approval for that establishment and operation has been obtained from the administrator. *Exceptions to this requirement may exist based upon judicial rulings on applicability of Iowa Code subsections 527.5(3) and 527.5(7) to certain federally chartered financial institutions.*

ITEM 6. Amend rule 197—14.6(527) to read as follows:

197—14.6(527) Advertising at satellite terminals *Customer instruction in the use of a satellite terminal.*

14.6(1) Scope. A satellite terminal as defined by Iowa Code section 527.2 includes terminals located on the premises of a financial institution, as well as all terminals located off the premises of a financial institution. For purposes of advertising, however, only satellite terminals located off the premises of the establishing financial institution are governed by the restrictions contained in these rules.

14.6(2) Advertising at satellite terminal locations. The term “satellite terminal location,” as used in Iowa Code subsection 527.5(5), means all physical space within 100 feet in any direction of the satellite terminal. Advertising identifying the establishing financial institution may be displayed at any location outside this area as defined; however, any physical structure which encompasses a satellite terminal location, except a branch facility of the establishing financial institution, is also prohibited from displaying advertising identifying the establishing financial institution.

14.6(3) Other forms of advertising. The establishing financial institution is permitted to advertise its establishment of off-premises satellite terminals in newspaper, radio, television, or other media, as long as such advertising does not appear or is not broadcast at the satellite terminal location or anywhere in or upon the physical structure encompassing the satellite terminal.

14.6(4) Satellite terminal use instructions. Iowa Code subsection 527.5(4) prohibits employees of the establishing financial institution or affiliate from attending or operating a satellite terminal except on a temporary basis for the purpose of instructing customers in the proper use of the satellite terminal. For purposes of these rules *this rule*, such temporary basis shall be defined to be no more than 30 calendar days from the date of initial operation of the satellite terminal. Satellite terminals located on the premises of the establishing financial institution are exempt from this restriction.

This rule is intended to implement Iowa Code subsections *subsection 527.5(4) and 527.5(5).*

ARC 5328B

SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 10B.4, the Secretary of State hereby gives Notice of Intended Action to adopt new Chapter 11, “Agricultural Landholding Reporting,” Iowa Administrative Code.

The new chapter provides for a reporting entity in possession of agricultural land to file a report with the Secretary of State. The report may be filed in conjunction with the biennial report.

This new chapter does not contain a waiver provision.

There will be no public hearing regarding the proposed amendment.

Any interested party may make written comments on the proposed new chapter on or before September 19, 2006. Written comments may be sent to Syeta Glanton at Office of the Secretary of State, First Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments

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may also be submitted via facsimile to (515)242-5953 or electronically to sglanton@sos.state.ia.us.

This rule is intended to implement Iowa Code chapter 10B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** 721—Chapter 11 as follows:

CHAPTER 11

AGRICULTURAL LANDHOLDING REPORTING

721—11.1(10B) General provisions.

11.1(1) Definitions. The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the Iowa Code shall have the respective meanings accorded such terms in the Iowa Code:

“Agricultural land” means land suitable for use in farming as defined in Iowa Code section 9H.1.

“Cooperative association” means any entity organized on a cooperative basis, including an association of persons organized under Iowa Code chapter 497, 498, or 499; an entity composed of entities organized under those chapters; or a cooperative organized under Iowa Code chapter 501.

“Corporation” means a domestic or foreign corporation subject to Iowa Code chapter 490, a nonprofit corporation, or a cooperative.

“Farming” means the same as defined in Iowa Code section 9H.1.

“Foreign business” means the same as defined in Iowa Code section 9I.1.

“Foreign government” means the same as defined in Iowa Code section 9I.1.

“Holding an interest” means a reporting entity holds an interest in agricultural land if the reporting entity directly or indirectly owns or leases agricultural land in this state.

“Limited liability company” means a limited liability company as defined in Iowa Code section 490A.102.

“Limited partnership” means a foreign or domestic limited partnership, including a limited partnership as defined in Iowa Code section 487.101 or 488.102, and a domestic or foreign limited liability limited partnership under Iowa Code section 487.1301 or 487.1303, or chapter 488.

“Nonprofit corporation” means any of the following:

1. A corporation organized under the provisions of Iowa Code chapter 504 or 504A.

2. A corporation which qualifies under Title 26, Section 501, of the United States Code.

“Nonresident alien” means the same as defined in Iowa Code section 9H.1.

“Reporting entity” means any of the following:

1. A corporation other than a family farm corporation, including an authorized farm corporation or networking farmers corporation as defined in Iowa Code section 10.1 holding an interest in agricultural land in this state.

2. A cooperative association holding an interest in agricultural land in this state.

3. A limited partnership, other than a family farm limited partnership, holding an interest in agricultural land in this state.

4. A person acting in a fiduciary capacity or as a trustee on behalf of a person, including a corporation, cooperative association, limited liability company, or limited partnership,

which holds in a trust, other than through a family trust as defined in Iowa Code section 9H.1, including through an authorized trust, an interest in agricultural land in this state.

5. A limited liability company, other than a family farm limited liability company, including an authorized limited liability company, or a networking farmers limited liability company or farmers cooperative limited liability company as defined in Iowa Code section 10.1 holding an interest in agricultural land in this state.

6. A foreign business holding an interest in agricultural land in this state as provided in Iowa Code chapter 9I.

7. A foreign government holding an interest in agricultural land in this state as provided in Iowa Code chapter 9I.

8. A nonresident alien holding an interest in agricultural land in this state as provided in Iowa Code chapter 9I.

11.1(2) Persons required to file. The reports required under Iowa Code section 10B.4 shall be signed and filed by the following individuals required to submit reports pursuant to that section for their respective reporting entities:

a. A person serving as the president or other officer or authorized representative of a corporation.

b. A person serving as the president or other officer or authorized representative of a cooperative association.

c. A person acting as the general partner of a limited partnership.

d. A person acting in a fiduciary capacity or as a trustee on behalf of a person.

e. A person who is a member, manager, or authorized representative of a limited liability company.

f. A person serving as the president or other officer or authorized representative of a foreign business.

g. A person authorized to make the report by a foreign government.

h. A nonresident alien or an agent, trustee, or fiduciary of the nonresident alien.

11.1(3) Reporting requirements.

a. A biennial report shall be filed with the secretary of state by a reporting entity on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to Iowa Code chapter 17A. However, a reporting entity required to file a biennial report pursuant to Iowa Code chapter 490, 496C, 497, 498, 499, 501, or 504A shall file the report required by this subrule in the same year as required by that chapter. The reporting entity may file the report required by this subrule together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

b. A report required pursuant to this subrule shall contain information for the reporting period regarding the reporting entity as required by the secretary of state, which shall at least include all of the following:

(1) The name and address of the reporting entity.

(2) The name and address of the person supervising the daily operations on the agricultural land in which the reporting entity holds an interest.

(3) The following information regarding each person who holds an interest in the reporting entity:

1. The name and address of the person.

2. The person's citizenship, if other than the United States.

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3. The percentage interest held by the person in the reporting entity, unless the person is a natural person who holds less than a 10 percent interest in a reporting entity.

(4) The percentage interest that a reporting entity holds in another reporting entity, and the number of acres of agricultural land that are attributable to the reporting entity which holds an interest in another reporting entity as provided in Iowa Code chapter 10.

(5) A certification that the reporting entity meets all of the requirements to lawfully hold agricultural land in this state.

(6) The number of acres of agricultural land held by the reporting entity, including the following:

1. The total number of acres in the state.
2. The number of acres in each county, identified by county name.
3. The number of acres owned.
4. The number of acres leased.
5. The number of acres held other than by ownership or lease.
6. The number of acres used for the production of row crops.

(7) If the reporting entity is a life science enterprise, the total number of commercial sales of life science products and products other than life science products which are produced from the agricultural land held by the life science enterprise.

c. A reporting entity other than a foreign business, foreign government, or nonresident alien shall be excused from filing a report with the secretary of state during any reporting period in which the reporting entity holds an interest in less than 20 acres of agricultural land in this state and the gross revenue produced from all farming on the land equals less than \$10,000.

11.1(4) Enforcement—penalties.

a. The failure to file a report or the filing of false information in a report as provided in this rule is punishable by a civil penalty not to exceed \$1,000.

b. The secretary of state shall notify a reporting entity which the secretary of state has reason to believe is required to file a report and who has not filed a timely report that the person may be in violation of this rule. The secretary of state shall include in the notice a statement of the penalty which may be assessed if the required report is not filed within 30 days. The secretary of state shall refer to the attorney general any reporting entity which the secretary of state has reason to believe is required to report if, after 30 days from receipt of the notice, the reporting entity has not filed the required report. The attorney general may, upon referral from the secretary of state, file an action in district court to seek the assessment of a civil penalty of \$100 for each day the report is not filed.

This rule is intended to implement Iowa Code chapter 10B.

ARC 5371B

SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Chapter 22, "Voting Systems," and Chapter 26, "Counting Votes," Iowa Administrative Code.

These proposed amendments were developed in consultation with the county commissioners of elections after the primary election. The purpose of these amendments is to clarify the proper method for handling issues that were noted during the primary election.

Item 1 permits county commissioners of elections to fax all abstracts of votes required by law to be filed with the state commissioner of elections. The new I-VOTERS system provides the state commissioner with new methods of authenticating election results, and fax transmittal improves the efficiency of the process.

Item 2 adds a new rule 721—21.6(43,50) that prescribes the information to be provided in the report of the number of people who voted in each election.

Item 3 amends rule 721—21.301(53) to provide a procedure for county commissioners to follow when a person whose voter registration is inactive appears in person to cast an absentee ballot and to clarify procedures to follow when an inactive absentee voter applies by mail.

Items 4 through 8 make a distinction in the election preparation process between preelection testing done as a part of the preparation for an election and the public test required by Iowa Code sections 52.9, 52.35 and 52.38. County commissioners have been inviting the public to the full range of preelection testing and find that most people are not interested in participating in the multiday process. The Iowa Code does not require that the public be invited to view the entire process of detailed preelection testing. The public test is intended to show that the voting equipment is correctly prepared for the election and to provide an opportunity for members of the public to participate in testing. The abbreviated process provided in these revised rules is intended to make public participation easier for everyone.

Item 9 provides a process for documenting voting equipment malfunctions at the polls on election day.

Item 10 eliminates a requirement that the test tapes generated in the public test be posted at the polls on election day. These tapes have proved to be a source of confusion to voters who are surprised to see vote totals posted while the polls are open. The test tapes are now proposed to be kept with the test ballots and preserved as a record of the election.

Item 11 clarifies that precinct election officials do not need to keep two tally lists when tabulating write-in votes from optical scan ballots. Iowa Code section 50.2 permits a single tally list if the voting equipment provides a printed record of the results of the election.

Item 12 provides a simple test process for AutoMARK Voter Assist Terminals. The current rule, which is an adapta-

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tion of technicians' procedures, requires processes that are not appropriate for election officials.

Item 13 provides that abandoned ballots left on Auto-MARK terminals should be treated the same way as abandoned ballots on direct recording electronic (DRE) voting machines (i.e., the precinct officials shall cast the abandoned ballot).

Item 14 includes the ES&S Model 100 in the list of voting equipment that can be used to tabulate absentee ballots and provisional ballots.

Items 15 and 16 make corrections in terminology.

Item 17 provides for the transfer of voter-reviewed ballot records from the canister to permanent storage.

Item 18 adds the Diebold Election Systems TSX to the list of voting machines covered by the vote-counting rules in Chapter 26.

Item 19 provides basic guidance for recounts using optical scan voting equipment.

Item 20 provides basic guidance for recounts on DRE voting machine ballot records.

Any interested person may make written suggestions or comments on these proposed amendments through September 19, 2006. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823 or visit the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on September 18, 2006.

These amendments are intended to implement Iowa Code chapters 50 and 52.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **21.2(1)“k”** as follows:

k. Abstracts of votes filed with the state commissioner of elections pursuant to Iowa Code section 50.46.

ITEM 2. Amend 721—Chapter 21 by adding the following **new** rule:

721—21.6(43,50) Turnout reports. For all elections, the commissioner shall prepare a report of the number of people who voted. The board of supervisors shall certify the turnout at the canvass of votes.

21.6(1) This report shall provide a single number that includes the number of persons:

- a. Who voted at the polls on election day,
- b. Whose absentee ballots were accepted for counting, and
- c. Whose provisional ballots were accepted for counting.

21.6(2) The report shall not include the number of persons whose absentee ballots or provisional ballots were not accepted for counting.

21.6(3) In primary elections, the report shall include the number of persons who voted in each political party and the total number of persons who voted in the county.

This rule is intended to implement Iowa Code sections 43.59 and 50.24.

ITEM 3. Amend rule 721—21.301(53) as follows:

721—21.301(53) Absentee requests from voters whose registration records are inactive.

21.301(1) *In person.* Absentee voters whose registration records are inactive and who appear in person to vote, either at the office of the commissioner or at a satellite absentee voting station, shall be required to provide identification before voting. The voter may present any of the identification documents prescribed in subrule 21.3(3). If the voter does not have appropriate identification documents, the official or staff person receiving the application shall challenge the ballot and notify the voter that the voter must provide a copy of the appropriate form of identification not later than the date upon which the absentee and special precinct board will meet to review provisional ballots after election day pursuant to Iowa Code section 50.21.

21.301(2) *By mail.* When a request for an absentee ballot is received by mail from a voter whose registration record has been made inactive pursuant to Iowa Code section 48A.29, the commissioner shall respond to the request and enclose the following notice along with a voter registration form:

a. *Form.* The commissioner shall send a voter registration form marked with the serial number associated with the voter's absentee ballot request, and the following notice:

Notice to the Voter:

Your request for an absentee ballot has been received and processed. However, our records show that your voter registration is not currently active. To restore your registration, please complete the enclosed voter registration form and return it to:

County Auditor
(Address)

Return the registration form separately. Do not enclose it with your absentee ballot.

This registration form must be received in my office no later than (the time the polls close) on (election day), or be postmarked no later than (the day before election day).

WARNING: If the registration form is not properly completed and returned separately, your absentee ballot will not be counted.

b. *Instructions to commissioner.* If the registration form is received by the deadline for receipt of absentee ballots as prescribed in Iowa Code section 53.17, and all other legal requirements are met, the ballot shall be counted. If the return carrier envelope is received before the registration form, the envelope shall not be opened but shall be held until the deadline for receipt of absentee ballots. If the registration form has not been received by the deadline, the officials of the absentee and special voters precinct board shall open the return carrier envelope. If the registration form is enclosed, and all other legal requirements are met, the ballots shall be counted. However, if the registration form is not enclosed in the return carrier envelope, the affidavit envelope containing the ballot shall not be opened.

This rule is intended to implement Iowa Code sections 48A.29 and 53.2.

ITEM 4. Amend rule 721—22.39(52) as follows:

721—22.39(52) Preelection testing and public testing for direct recording electronic voting machine-voting equipment machines. Before each election in which direct recording electronic (DRE) voting machines are used, the commissioner shall conduct preelection testing and public testing.

22.39(1) Automatic testing—insufficient. Some vendors provide an automatically generated test program for direct recording electronic voting machines. Although these tests

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provide the user with information about the internal integrity of the machine, the automatic test is not an adequate preelection test; it does not include testing to show that the programming for the current election is correctly done; and it does not test the operation of the voter-operated functions of the machine.

22.39(2) Preelection testing. *The preelection testing shall be a part of the process of preparing for each election. Preelection DRE voting machine testing shall be conducted by authorized employees of the commissioner, working in two-person teams. One person shall read the test and document the process; the other person shall perform the test on the DRE voting machine. The process and results of the preelection test shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.*

22.39(2.3) Preelection test plan. *Before it is used in an election, the commissioner shall print the zero totals report and*

a. As soon as possible after the program materials for an election are available and before the public test described in 22.39(4), the commissioner shall subject the direct recording electronic voting machine to the following tests.

a. (1) Automated test. Run the automated test on each machine and record the results.

b. (2) Logic test. Verify that the correct visual ballot (and audio ballot, if any) is installed for each direct recording electronic voting machine to be used in the election.

c. (3) Touch test. As each visual ballot (and audio ballot, if any) is reviewed, select and then deselect each candidate to verify that the candidate can be selected as a choice; leave the first (or last or other standard choice) selected to provide a check of the summary report when the test is closed; and save this result for a report of the touch test results.

d. (4) Public test. Select at least one direct recording electronic voting machine for each ballot style and test every office, judge and public measure on the ballot; and have copies of the touch test results and the automated tests available for inspection. Accuracy test. Use each voting method (visual, audio, etc.) available to conduct the accuracy test. Prepare a written test plan to guide the entry of votes into the machine. This test shall be conducted as follows:

1. Record votes for each candidate for an office, including offices to which more than one person will be elected, with each candidate receiving a different number of votes. The first candidate shall receive one vote; the second candidate shall receive two votes; the third candidate shall receive three votes; and so on.

2. For offices to which more than one candidate will be elected, test each combination of candidates in addition to the test in numbered paragraph "1," above. Each candidate should have the same number of votes in this test.

3. For each public measure and judge on the ballot, the "YES" position shall receive one vote and the "NO" position shall receive two votes.

4. Test every write-in position by selecting it once. Enter at least ten letters of the alphabet in the appropriate place. In the test, use all of the letters to make sure they function correctly. For offices with more than one person to be elected, test all of the write-in positions at the same time.

5. Attempt to overvote every office on the ballot.

6. For primary elections, verify that the voter may cast votes for the candidates of only one political party.

7. For general elections, test each straight party voting option separately from the tests listed in numbered para-

graphs "1" through "5," above. Prepare a written plan to test the straight party voting option as follows:

- Assign one vote to the first straight party option, two votes to the second, and so on.*

- For each straight party choice, select the straight party option, then, for each affected office, select the write-in option and write the name of the straight party choice being changed.*

- Mark no other votes on this set of test ballots.*

8. Print the results of the machine tabulation and compare the results with the written test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be available for inspection during the public test described in subrule 22.39(4) and shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

b. The commissioner shall compile the results of all tests to demonstrate the election reporting function.

22.39(4) Public test. *Every direct recording electronic voting machine that will be used in an election shall be tested publicly. The commissioner shall provide notice to the chairpersons of the political parties and to the public as required by Iowa Code section 52.9. The test shall be done following a written plan, with one person operating the electronic voting machine and another person observing and verifying that the correct actions were taken. The tests shall be conducted as follows for each machine:*

a. Before beginning the test, print a zero report.

b. Verify that each DRE voting machine has the correct ballot(s) for the election and the precinct in which the DRE voting machine will be used.

c. Following a written plan, cast several ballots on the machine. Each candidate shall receive a different number of votes.

d. Compare the printed results with the written test plan.

e. The commissioner shall allow a reasonable amount of time for public participation. Members of the public, working with a person designated by the commissioner, may also provide a written test plan and test the operation of the DRE voting machines.

f. Following the test, print a zero report, and apply all required locks and seals and record the seal numbers on the appropriate documents.

g. Each person present at the test must sign a certificate of test, as required by Iowa Code section 52.9.

22.39(3.5) Electronic transmission. *If the results will be transmitted electronically from the precincts on election night, the commissioner shall test each modem before election day.*

ITEM 5. Amend rule 721—22.40(52), introductory paragraph, as follows:

721—22.40(52) Public testing of lever voting machines. *All lever voting machines shall be tested publicly before use at any election, as required by Iowa Code section 52.9.*

ITEM 6. Rescind rule 721—22.41(52) and adopt the following new rule in lieu thereof:

721—22.41(52) Preelection testing of optical scan systems. *As a part of preparation for use for each election, the commissioner shall thoroughly test all automatic tabulating equipment before it is tested publicly as required by Iowa Code sections 52.35 and 52.38 and rule 721—22.43(52). The process and results of the preelection testing shall be carefully documented and shall be available for inspection at the public*

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test. Members of the public may observe preelection testing, but may not participate in it.

22.41(1) Each automatic tabulating device shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled, and the write-in votes are reported correctly.

e. For primary elections, the tabulating equipment accurately records votes cast for all political parties.

f. For general elections:

(1) A ballot marked with only a straight party vote is recorded with one vote for each candidate of the designated political party, and no other votes are recorded for partisan offices;

(2) The voter may override a straight party vote by voting for any candidate not associated with that political party; and

(3) For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive a vote.

22.41(2) Conducting the test.

a. Follow the process described in rule 721—22.42(52) for preparing test decks.

b. If, during the test, there are differences between the test plan and the results produced by the optical scan device, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the faulty program or equipment shall not be used at the election.

c. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

ITEM 7. Amend rule 721—22.42(52) as follows:

721—22.42(52) Preparing test decks. *The commissioner shall prepare the test decks from ballots printed for use at the polling places and for absentee balloting in the election. Test ballots for optical scan voting equipment shall test the reporting of votes for every office and public measure on the ballot at the election. A test deck shall be prepared for every precinct or ballot style in the election and shall include ballots from every ballot style. Commissioners may use additional test methods to supplement the process described in this rule.*

22.42(1) Requirements for all ~~hand-marked~~ test decks prepared by the commissioner and used in preelection testing.

a. The commissioner shall:

a. (1) Never erase errors and never use correction fluid or correction tape to cover errors. Replace the ballot instead.

b. (2) Fill in each oval completely using the recommended pen or pencil.

c. (3) Mark each ballot "Test Ballot;" and label each ballot to indicate whether it is from the single-vote test deck, the systematic test deck, or the straight party test deck.

b. In counties where the AutoMARK VAT is used, the commissioner may prepare some test ballots using the AutoMARK.

c. The use of hand-marked ballots that include folds, erasures, marginal or extra marks shall not be used in the preelection test decks described in this rule. An additional set of test ballots may be prepared to test election-day conditions, particularly for folded absentee ballots.

22.42(2) Single-vote test deck. The commissioner shall use at least five ballots for this test deck. ~~More ballots may be needed if the election includes rotated offices. The commissioner shall perform the following:~~

a. On both sides of each ballot, fill in the oval for the same first candidate in each office. ~~Always mark the first candidate listed under the office title, unless the candidates are rotated from precinct to precinct.~~

b. ~~If the names of candidates are rotated, always mark the candidate whose last name comes first alphabetically. Mark one ballot for each rotation.~~

c. b. For public measures and judges, fill in the oval for the "yes" choice.

d. c. On general election ballots, always leave the straight party choice blank. (See subrule 22.42(5) for testing straight party voting.)

e. d. Check each ballot to be sure it is correctly marked for this test. ~~Count and count~~ the ballots. The first candidate in each office should have the same number of votes as there are ballots. An office for which more than one person is to be elected will have undervotes reported. There should be no overvotes in this deck.

f. ~~Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes.~~

g. e. Scan all ballots at least one ballot in this deck in each of the four possible orientations:

(1) Face up, head first.

(2) Face down, head first.

(3) Face up, feet first.

(4) Face down, feet first.

f. Scan the ballots and then print a report that shows votes for all offices, public measures and judges, including undervotes and overvotes.

22.42(3) Random Systematic test deck. The commissioner shall use this deck to test each oval that was not tested in the single-vote test deck and determine a systematic number of votes for each candidate and write-in position in each office, such as two votes for the second candidate listed (or "NO" votes on public measures and judges), three votes for the third candidate, etc. Using the report showing the results of the single-vote test deck as a guide, the commissioner shall record the planned number of votes for each candidate and record the planned number of overvotes and undervotes in the appropriate places on the report. ~~The basic plan is as follows: The commissioner shall:~~

a. Mark votes for each candidate except the one that was voted for in the single-vote test deck.

b. For offices without candidates (these will have the same number of write-in lines as there are candidates to be elected), determine a unique, varying combination of votes and undervotes for the office.

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c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed.

d. Include in the tally the number of undervotes for all offices with only one candidate.

e. If there is only one office on the ballot, do not leave the office unmarked. ~~The because the scanner will reject the ballot as blank.~~

f. For a single-precinct election, use at least two ballots in the ~~random~~ systematic test deck.

g. Mark the test ballots according to the plan and check the marks on the ballots against the plan.

~~h. Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes. Check the report against the plan. If there are differences, hand tally the ballots to be sure that the ballots were marked according to the plan. Include overvotes in this deck to determine that only the overvoted office is not counted and that the remainder of the correctly marked offices are counted.~~

22.42(4) Overvote and blank ballot test. For an overvote and blank ballot test, the commissioner shall:

a. Mark all voting targets on one ballot.

b. On a second ballot, overvote each office by one vote.

c. *When the overvoted ballots are rejected by the optical scan tabulator, override the rejection and include the ballot in the tally.* Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate. (Not all vendors report overvotes in the same way.)

d. *Insert a blank ballot. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.*

22.42(5) Straight party test for general elections. For a straight party test, the commissioner shall:

a. ~~Use at least two ballots for each straight party option.~~ For each set of ballots:

(1) ~~Mark only a straight party vote on one ballot votes in a pattern, such as one vote for the first straight party choice, two votes for the second, and so on, and tally the expected results.~~

(2) ~~On the second ballot a second set of ballots containing as many ballots as there are straight party choices, mark the same straight party option and, for each office affected by the straight party vote, mark one candidate who is not a candidate for the selected party the write-in oval, and tally the expected results.~~

(3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with only a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.

b. ~~Test each ballot separately. For each ballot:~~

(1) ~~Scan the ballot and print a report showing the results for the whole ballot.~~

(2) ~~Check the report to be sure that the votes marked were counted correctly. When the straight party choice is marked and the voter also marks one or more individual candidates for a partisan office, the straight party vote is ignored for that office. This process applies to any mark for any candidate, write-in selection or overvote in that office.~~

c. Compile the results of the straight party deck.

22.42(6) Combined test deck. The commissioner shall run the combined test decks and compare the results to the test plan. The scanner results and the hand tally must match. *Use this combined test deck for the public test as required by subrule 22.43(2).*

ITEM 8. Adopt the following new rule:

721—22.43(52) Public testing of optical scan systems. All automatic tabulating equipment shall be tested before use at any election, as required by Iowa Code sections 52.35 and 52.38.

22.43(1) The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

a. The correct program cartridge is in place for the election and the precinct or precincts in which it will be used.

b. The appropriate ballots are available for the test of each automatic tabulating device to be used in the election.

c. All counters are set at zero before the test is begun.

22.43(2) Each automatic tabulating device shall be tested to determine that the device and its programs will accurately tabulate votes for each candidate and question on the ballot. The combined test deck created for each precinct during pre-election testing, as required by rule 721—22.42(52), shall be used for this test.

22.43(3) Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

The results tape from each scanner produced during the public test shall be signed by the person conducting the test and by any observers present at the test. The signers shall write their signatures at the end of the tape where it will be detached from the machine. The tape shall be torn or cut across the signatures, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester's signature, shall be retained with the appropriate test deck for the period of time required by Iowa Code section 50.19.

22.43(4) Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

a. Not more than ten ballots may be submitted by any person.

b. Only official ballots provided by the commissioner at the test shall be used. The commissioner shall provide sample ballots or photocopies of sample ballots to anyone upon request.

c. The preparer shall provide a written tally of the test deck.

d. The results of the machine tabulation shall be printed and compared with the preparer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

e. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

ITEM 9. Amend 721—Chapter 22 by adopting the following new rule:

721—22.52(52) Voting equipment malfunction at the polls. The precinct election officials shall immediately cease using any malfunctioning voting equipment and report the problem to the commissioner. Only a person who is authorized in writing by the commissioner to do so shall be permitted to attempt to repair malfunctioning voting equipment.

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The commissioner shall keep a written record of all known malfunctions and their resolution. The precinct election officials shall return the voting equipment to service only if the malfunction is corrected.

22.52(1) Routine resolution. Some problems may be easily resolved by following simple instructions. If the commissioner and the precinct election officials are able to resolve a problem without replacing the equipment, the officials shall document the problem, the time it occurred, how it was resolved, and by whom.

22.52(2) Repair or replacement. Repairs to voting equipment at the polls on election day shall be limited. If the problem cannot be easily resolved, a person who is authorized to do so by the commissioner shall replace the equipment as soon as possible. Two election officials, one from each political party, shall witness repair or replacement of any voting equipment, including memory cards. The authorized person making the repair or replacement and the two election officials shall sign a report of the incident.

ITEM 10. Rescind and reserve subrule **22.201(2)**.

ITEM 11. Amend subrule 22.240(3) as follows:

22.240(3) Unlock or remove the seal on the ballot box or bin containing ballots with write-in votes and open it. The precinct officials shall remove the ballots and manually count the write-in votes as required by 721—Chapter 26. The officials shall record the write-in votes in the tally list. *A single tally list is sufficient for use when tabulating write-in votes.*

ITEM 12. Amend subrule **22.261(20)** by rescinding paragraph “c” and adopting the following new paragraph in lieu thereof:

c. Preelection testing. Each AutoMARK VAT shall be tested thoroughly before each election in which it will be used. The commissioner may use the AutoMARK VAT to prepare some ballots for test decks required by 721—22.42(52). In addition, the commissioner shall:

(1) Perform the test ballot print, then review the ballot to be sure that all ovals are darkened and the appropriate names are printed on each line.

(2) Calibrate the touchscreen.

(3) Test all functions and select, then deselect each voting position in each race.

(4) Verify that overvote and undervote functions are programmed correctly.

(5) Test the write-in function for each office on one ballot, and test all of the letters in the alphabet.

(6) Using the audio ballot function, use each function to mark one ballot.

(7) Tabulate the marked ballots from this test on the appropriate Model 100 or Model 650.

(8) Ensure that the AutoMARK VAT is available for demonstration at public tests.

ITEM 13. Amend subrule **22.261(20)** by adopting the following new paragraph “j”:

j. If a voter or precinct election official discovers that a voter has left the AutoMARK VAT without printing the voter's ballot, the two election officials designated to assist voters shall print the ballot without reviewing the ballot or making any changes, enclose the ballot in a secrecy folder and immediately deposit the ballot in the ballot reader.

ITEM 14. Amend rule 721—22.350(52) as follows:

721—22.350(52) Election Systems & Software Model 650 models.

22.350(1) Model 650. The following ballot preparation selections are mandatory for all elections:

a. Maximum number of votes. The following description for each office shall be used: “Vote for no more than xx.” Do not include “vote for” language for public measures or judges.

b. Ballot format. The voting target shall be printed on the left side of the candidate's name and on the left side of each “yes” and “no” choice for public measures and judges. The voting target shape shall be an oval.

22.350(2) Reserved. Model 100. *The Model 100 precinct count tabulating device may be used to count absentee ballots and provisional ballots.*

ITEM 15. Amend paragraph **22.463(1)“a”** as follows:

a. The version of the iVotronic certified for use in Iowa does not include the ~~receipt~~ voter-reviewable ballot record printing option. The commissioner shall not enable ~~receipt~~ *printing this option.*

ITEM 16. Amend rule 721—22.464(52), catchwords, as follows:

721—22.464(52) Diebold Election Systems' AccuVote TSX DRE.

ITEM 17. Amend subrule 22.464(4) as follows:

22.464(4) AccuView Printer Module (AVPM). The commissioner may use this optional feature. Iowa law neither prohibits nor permits its use. The commissioner shall not provide to a recount board any information stored in the AVPM printer module canister.

a. to c. No change.

d. *Label.*

(1) *The commissioner shall provide a removable label for the AVPM canister. The label shall conform to substantially the following form:*

Canister ___ of ___ [numbers to be entered after polls close]
 AVPM Roll Canister for _____ Election held on _____
 in _____ Precinct in _____ County, Iowa
 Installed by: _____
 Date: _____ Time: _____
 Removed by: _____
 (D) _____
 (R) _____
 Date: _____ Time: _____
 Canister serial #: _____ Lock/Seal #: _____
 Number of voters: _____

(2) *If it is necessary to replace the paper in the AVPM during the hours the polls are open on election day, two election officials, one from each party, shall replace the paper. They shall not examine the tape. The label showing when the depleted paper tape was installed shall be removed from the canister and shall be used to mark the envelope or other container used to store the paper roll. This container shall be sealed. A new label shall be applied to the canister showing who installed the new paper roll and the date and time. Each official shall sign the new label on the canister.*

d. e. After the polls close on election day, the precinct election officials shall ~~seal~~ *remove the paper roll* from each canister containing ballot images recorded during the election by following the procedure described in paragraph “d,” above. The ~~canisters~~ *sealed paper rolls* shall be stored for 22 months after federal elections and for 6 months after all other elections. After the retention period has passed, the tapes

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shall be destroyed *without opening the envelope or other container*.

ITEM 18. Amend subrule 26.2(4) as follows:

26.2(4) Voting machines. Votes shall be counted following the standards in Part IV. If a voter leaves the voting booth without casting the ballot, the precinct election officials shall cast the ballot without examining the face of the machine. Emergency paper ballots shall be counted following the standards in Part III. The standards in Part IV apply to the *Iowa-certified versions of the following voting systems*:

- a. MicroVote.
- b. Election Systems & Software iVotronic.
- c. Fidler Doubleday EV2000.
- d. Sequoia Pacific Automatic Voting Machine.
- e. Sequoia Pacific Automatic Voting Computer.
- f. Diebold Election Systems TSX.

ITEM 19. Amend subrule 26.105(2), catchwords, as follows:

26.105(2) ~~Tabulation~~ *Optical scan tabulation* duties.

ITEM 20. Adopt the following **new** subrule:

26.105(3) DRE voting machine tabulation duties. Working with one precinct at a time, the designated members of the commissioner's staff shall print the ballot images from the DRE voting machine internal audit log. The ballot image report from each precinct shall be sealed in the same manner as voted ballots at the conclusion of the recount.

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SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 10B.4, the Secretary of State hereby gives Notice of Intended Action to adopt new Chapter 46, “Life Science Enterprises,” Iowa Administrative Code.

The new chapter provides for a reporting entity in possession of life science enterprises to file a report with the Secretary of State which may be filed in conjunction with the biennial report. The purpose of the chapter is to promote economic growth in this state during this period of revolutionary technological advancement in animal and human health sciences, by providing for the development of industries unrelated to traditional farming, but devoted to the production of life science products derived from animals.

There will be no public hearing regarding the proposed amendment.

This new chapter does not contain a waiver provision.

Any interested party may make written comments on the proposed new chapter on or before September 19, 2006. Written comments may be sent to Syeta Glanton at Office of the Secretary of State, First Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may also be submitted via facsimile to (515)242-5953 or electronically to sglanton@sos.state.ia.us.

This rule is intended to implement Iowa Code chapter 10C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 46

LIFE SCIENCE ENTERPRISES

721—46.1(10C) Reporting requirements. Life science enterprises shall file a report with the secretary of state as required by Iowa Code section 10B.4 on or before March 31 of each odd-numbered year. However, a reporting entity required to file a biennial report pursuant to Iowa Code chapter 490, 496C, 497, 498, 499, 501, or 504A, shall file the report required by this rule in the same year as required by that chapter. The reporting entity may file the report required by this rule together with the biennial report required to be filed by one of the other chapters referred to in this rule. Further information pertaining to life science enterprises and all forms may be obtained by contacting the Secretary of State, Business Services Division, Lucas State Office Building, First Floor, Des Moines, Iowa 50319, (515)281-5204 during regular office hours, 8 a.m. to 4:30 p.m. Monday through Friday except state holidays.

This rule is intended to implement Iowa Code chapter 10C.

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Pursuant to the authority of Iowa Code section 314.1B as amended by 2006 Iowa Acts, House File 2713, section 29, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2007.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting on June 6, 2006, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted to \$75,000 effective January 1, 2007.

2. The bid threshold in Iowa Code section 314.1, subsection 2, as amended by 2006 Iowa Acts, House File 2713, section 27, and House File 2797, section 80, for cities with a population of 50,000 or less will be adjusted to \$40,000 effective January 1, 2007.

3. The bid threshold in Iowa Code section 314.1, subsection 2, as amended by 2006 Iowa Acts, House File 2713, section 27, and House File 2797, section 80, for cities with a population of more than 50,000 will be adjusted to \$57,000 effective January 1, 2007.

TRANSPORTATION DEPARTMENT(cont'd)

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Competitive Quotation Thresholds for Vertical Infrastructure Public Improvements

Pursuant to the authority of Iowa Code section 314.1B as amended by 2006 Iowa Acts, House File 2713, section 29, the Director of Transportation gives an advisory notice of adjusted competitive quotation thresholds for vertical infrastructure public improvements. The adjusted competitive quotation threshold values will become effective January 1, 2007.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director's designee, held a meeting on August 3, 2006, to review competitive quotation thresholds. After a review of the adjustments made by the horizontal infrastructure bid threshold subcommittee, the vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive quotation thresholds listed in 2006 Iowa Acts, House File 2713, section 14:

1. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$75,000 effective January 1, 2007.

2. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$57,000 effective January 1, 2007.

3. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$57,000 effective January 1, 2007.

4. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$57,000 effective January 1, 2007.

5. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$40,000 effective January 1, 2007.

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TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.9, 307.10, and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 10, "Administrative Rules and Declaratory Orders," Chapter 11, "Waiver of Rules," Chapter 28, "Iowa Transportation Map," and Chapter 122, "Keep Iowa Beautiful Program," and to adopt new Chapter 12, "Declaratory Orders," Iowa Administrative Code.

The Department reviewed its process concerning declaratory orders. As a result of that review, the Department decided that declaratory orders should be a separate chapter. New Chapter 12 defines "declaratory order" and "petition for declaratory order" and clarifies the process for seeking a declaratory order. Chapters 10, 11, 28 and 122 make corrective amendments concerning the Director's Staff Division, which is no longer in existence.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed rules and amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than September 19, 2006.

A meeting to hear requested oral presentations is scheduled for Thursday, September 21, 2006, at 1 p.m. in the First Floor South Conference Room of the Administration Building of the Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments are intended to implement Iowa Code chapters 17A, 307 and 314.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making actions:

ITEM 1. Amend the title of **761—Chapter 10** as follows:

CHAPTER 10 ADMINISTRATIVE RULES AND DECLARATORY ORDERS

ITEM 2. Amend subrule 10.1(3) as follows:

10.1(3) Address. The address of the department's administrative rules coordinator is: Administrative Rules Coordinator, ~~Director's Staff Office of Policy and Legislative Services~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

ITEM 3. Rescind rule **761—10.4(17A)**.

ITEM 4. Amend subrule 11.5(3) as follows:

11.5(3) Submission of petition. A petition for waiver from the requirements of a rule shall be submitted to the ~~Director's Staff Division~~ Office of Policy and Legislative Services, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 5. Amend subrule 11.8(2) as follows:

11.8(2) The ~~director's staff division~~ *office of policy and legislative services* shall retain for five years records relating to waivers granted or denied under this chapter.

ITEM 6. Adopt the following new chapter:

CHAPTER 12
DECLARATORY ORDERS

761—12.1(17A) Definitions.

"Declaratory order" means the department's interpretation of a statute, rule or order as applied to specified circumstances. A declaratory order is issued in response to a petition for declaratory order.

"Director" means the director of transportation or the director's designee.

"Petition for declaratory order" means a formal request from a person or agency to the department asking how the department will apply a statute, rule or order based on a specific set of facts contained in the petition. The purpose of the petition is to seek binding advice from the department, not to challenge a decision that the department has already made.

761—12.2(17A) Petition for declaratory order.

12.2(1) Any person or agency may file with the department a petition for declaratory order. The subject matter of the petition must be within the primary jurisdiction of the department.

12.2(2) The petition must be submitted to the department's administrative rules coordinator at the following address: Administrative Rules Coordinator, Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

12.2(3) The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner's name) FOR DECLARATORY ORDER ON (insert number of statute, rule, etc. and brief description of subject matter)	}	DOCKET NO. ____ PETITION FOR DECLARATORY ORDER
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(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
 2. The exact words, passages, sentences or paragraphs of statutes, rules, etc. which are the subject of the inquiry.
 3. A clear, concise and complete statement of all relevant facts for which the order is requested.
 4. The uncertainties or conflicting interpretations which arise when the cited statutes, rules, etc. are applied to the facts.
 5. (Optional) The interpretation urged based upon the facts set forth.
 6. The reasons for the petition and a full disclosure of the petitioner's interest.
 7. Whether the petitioner is currently a party to a rule-making, contested case or judicial proceeding involving the controversy or uncertainty.
 8. The names and addresses, when known, of other persons who may be affected by the declaratory order.
- 12.2(4)** The petition must be dated and signed by the petitioner or, if applicable, petitioner's representative.

12.2(5) If applicable, the petition must also include the name, address, and telephone number of the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

12.2(6) The date of receipt of the petition is the day it reaches the department's administrative rules coordinator. The coordinator shall promptly send an acknowledgement of receipt to the petitioner or, if applicable, petitioner's representative.

761—12.3(17A) Notice of petition. Within 15 days after receipt of a petition for declaratory order, the department shall provide copies of the acknowledgement of receipt and copies of the petition to all persons to whom notice of the petition is required by any provision of law. The department may also give notice to any other persons deemed appropriate.

761—12.4(17A) Action on petition.

12.4(1) A declaratory order or an order declining to issue a declaratory order shall be issued by the director.

12.4(2) The director shall not issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

12.4(3) The director may issue an order declining to issue a declaratory order on some or all of the questions raised in the petition for any of the following reasons:

- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department to issue a declaratory order.
- c. The department does not have jurisdiction over the questions presented in the petition.
- d. The questions presented in the petition are also presented in a current rule-making, contested case, or other agency or judicial proceeding that may definitively resolve them.
- e. The questions presented in the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f. The questions posed or facts presented in the petition are unclear, vague, incomplete, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a declaratory order.
- g. There is no need to issue a declaratory order because the questions raised in the petition have been settled due to a change in circumstances.
- h. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a department decision already made.
- i. The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
- j. The petitioner requests the department to determine whether a statute is unconstitutional on its face.

12.4(4) If the director issues an order declining to issue a declaratory order, the order must indicate the specific grounds for declining to issue a declaratory order and constitutes final agency action on the petition.

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761—12.5(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code sections 17A.9 and 17A.19.

ITEM 7. Amend rule 761—28.2(307) as follows:

761—28.2(307) Information. Information regarding the use of the Iowa transportation map may be obtained from: ~~Director's Staff Division Office of Media and Marketing Services~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1642 239-1922.

ITEM 8. Amend rule 761—122.2(314) as follows:

761—122.2(314) Information. Information and application forms regarding the keep Iowa beautiful program may be obtained from the following sources:

1. ~~Director's Staff Division Office of Systems Planning~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

2. Keep Iowa Beautiful, 521 East Locust Street, Des Moines, Iowa 50309-1996; telephone (515)323-6507. Keep Iowa Beautiful is a nonprofit, charitable organization.

3. The following Web sites: www.keeptowabeautiful.com or www.dot.state.ia.us.

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Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 602, "Classes of Driver's Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," Chapter 607, "Commercial Driver Licensing," Chapter 615, "Sanctions," Chapter 620, "OWI and Implied Consent," Chapter 630, "Nonoperator's Identification," Chapter 634, "Driver Education," and Chapter 635, "Motorcycle Rider Education (MRE)," Iowa Administrative Code.

A military extension is no longer limited to noncommercial Class C and Class M licenses, in accordance with 2005 Iowa Acts, chapter 8, section 19. Rules 761—602.12(321), 761—604.21(321) and 761—604.31(321) are amended to reflect this change.

Rules 761—602.11(321), 761—602.12(321), 761—602.13(321), and 761—630.2(321) are amended to correct language that is out of date regarding the period of validity of noncommercial Class C licenses, Class D licenses, Class M licenses, and nonoperator's identification cards.

Rules 761—602.18(321) and 761—602.19(321) are amended to change the period of validity of a motorcycle in-

struction permit and a noncommercial instruction permit from two years to four years, in accordance with 2006 Iowa Acts, House File 2525, sections 20 and 22.

Rule 761—602.25(321) and subrule 615.23(2) are amended to implement the provisions of 2005 Iowa Acts, chapter 8, sections 1, 15, 26 and 27, regarding license issuance and license suspension for minors who do not attend school. Iowa Code Supplement section 321.213B requires the Department to adopt rules.

Rule 761—602.26(321), minor's school license, is amended to add language from 2005 Iowa Acts, chapter 8, section 18, regarding the closest school bus stop or public transportation service.

Rules in Chapter 605 are amended to make changes to endorsement and restriction codes. Also, Class M (motorcycle) is changed to motorcycle only. Class M will not be added to another license class. Instead, if the licensee has another class of license, the motorcycle privilege will be a motorcycle endorsement added to the license. These changes are being made for consistency with other states and should be transparent to licensees.

Rule 761—615.25(321) is rescinded. This rule, which relates to the driver's license indebtedness clearance pilot project, is obsolete. 2006 Iowa Acts, Senate File 2253, sections 35, 36 and 86, eliminated this pilot project.

Subrule 615.42(1), which pertains to the remedial driver improvement action under Iowa Code section 321.180B, is amended to reflect the provisions of 2006 Iowa Acts, House File 2525, section 24. With the change, a person under the age of 18 who holds a full license is subject to remedial action if the violation or accident occurred while the person held an instruction permit or intermediate license.

Rule 761—615.43(321) is amended to provide that the Department may require a person whose license is subject to suspension under Iowa Code section 321.210C to complete a driver improvement program in lieu of suspension.

Subrule 634.6(1) and subrule 634.7(1), paragraph "b," which pertain to the qualifications for a driver's education teacher and a behind-the-wheel instructor, are amended to remove the restriction that the driver's license held by the individual must be an Iowa license. The Department has waived the Iowa driver's license requirement for driver's education teachers and behind-the-wheel instructors several times. A permanent rule change is warranted.

Other amendments in this rule making add the word "driver's" for consistency or clarity, correct language that is out of date, or update language to coordinate with the changes outlined above.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.

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5. Be received by the Office of Policy and Legislative Services no later than September 19, 2006.

A meeting to hear requested oral presentations is scheduled for Thursday, September 21, 2006, at 10 a.m. in the DOT conference room at Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments are intended to implement Iowa Code chapter 321.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making actions:

ITEM 1. Amend rule 761—602.11(321) as follows:

761—602.11(321) Class C noncommercial driver's license. This rule describes a noncommercial Class C *driver's* license that is not a special license or permit.

602.11(1) Validity and issuance.

a. The license is valid for operating:

(1) A motor vehicle that does not require a commercial driver's license or a Class D or ~~Class M~~ *driver's* license for its operation.

(2) A motorized bicycle.

(3) *A motorcycle only if the license has a motorcycle endorsement.*

b. The license is issued for either two years or ~~four~~ *five* years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet 70 years of age ~~has the option of either a two-year or four-year shall be issued a five-year~~ license.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

602.11(2) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.180B, 321.189, and 321.196.

ITEM 2. Amend rule 761—602.12(321) as follows:

761—602.12(321) Class D noncommercial driver's license (chauffeur). This rule describes a noncommercial Class D *driver's* license.

602.12(1) Validity and issuance.

a. The license is valid for operating:

(1) A motor vehicle as a chauffeur as specified by the endorsement on the license, unless the type of vehicle or type of operation requires a commercial driver's license or a ~~Class M~~ license.

(2) A motor vehicle that may be legally operated under a noncommercial Class C *driver's* license, including a motorized bicycle.

(3) *A motorcycle only if the license has a motorcycle endorsement.*

b. The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule 605.4(2). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

c. The license is issued for either two years or ~~four~~ *five* years.

(1) A qualified applicant who is at least 18 years of age but not yet 70 years of age ~~has the option of either a two-year or four-year shall be issued a five-year~~ license.

(2) A two-year license shall be issued to a qualified applicant who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

~~d. The license is eligible for a military extension only for noncommercial Class C privileges.~~

602.12(2) No change.

This rule is intended to implement Iowa Code sections 321.1, 321.177, 321.189, and 321.196, ~~321.197, and 321.198.~~

ITEM 3. Amend rule 761—602.13(321) as follows:

761—602.13(321) Class M noncommercial driver's license (motorcycle). This rule describes a noncommercial Class M *driver's* license that is not a special license or permit.

602.13(1) Validity and issuance.

a. The license is valid for operating:

(1) A motorcycle. However, the license may have a restriction which limits operation to a three-wheel motorcycle.

(2) A motorized bicycle.

b. The license is issued for either two years or ~~four~~ *five* years.

(1) A qualified applicant who is at least 17 years, 11 months of age but not yet 70 years of age ~~has the option of either a two-year or four-year shall be issued a five-year~~ license.

(2) A two-year license shall be issued to a qualified applicant who is under 17 years, 11 months of age or who is 70 years of age or older.

(3) A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

~~c. If the applicant has another class of license, the Class M license shall expire on the same date as the other license.~~

~~d c.~~ An Iowa driver's license issued before March 15, 1968, which is still valid because of an extension, is valid for motorcycles. An Iowa *driver's* license issued from March 15, 1968, through June 30, 1972, which is still valid because of an extension, is valid for motorcycles unless the back of the license is stamped "Not valid for motorcycles."

602.13(2) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.178, 321.180B, 321.189 and 321.196.

ITEM 4. Amend rule 761—602.18(321) as follows:

761—602.18(321) Motorcycle instruction permit. This rule describes a motorcycle instruction permit issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.18(1) Validity and issuance.

a. The motorcycle instruction permit is a permit that is added to another *driver's* license.

b. The permit is valid for operating a motorcycle when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is issued for ~~two~~ *four* years and is not renewable.

602.18(2) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

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ITEM 5. Amend rule 761—602.19(321) as follows:

761—602.19(321) Noncommercial instruction permit. This rule describes a noncommercial instruction permit, other than a motorcycle instruction permit, issued under Iowa Code subsection 321.180(1) or 321.180B(1).

602.19(1) Validity and issuance.

a. The permit is a restricted, noncommercial Class C driver's license.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver's license when the permittee is accompanied by a person specified in Iowa Code subsection 321.180(1) or 321.180B(1), as applicable to the age of the permittee.

c. The permit is not valid for operating a motorized bicycle.

d. The permit is not valid as a motorcycle instruction permit.

e. The permit is issued for two four years.

602.19(2) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.180 and 321.180B.

ITEM 6. Amend rule 761—602.21(321) as follows:

761—602.21(321) Special noncommercial instruction permit. This ~~subrule~~ rule describes a special noncommercial instruction permit issued under Iowa Code section 321.180A.

602.21(1) Validity and issuance.

a. The permit is a restricted, noncommercial Class C driver's license that is issued to a person whose application for driver's license renewal has been denied or whose driver's license has been suspended for incapability due to a physical disability.

b. The permit is valid for operating a motor vehicle that may be legally operated under a noncommercial Class C driver's license when the permittee is accompanied by a person specified in Iowa Code section 321.180A.

c. The permit is not valid for operating a motorized bicycle.

d. *The permit is not valid as a motorcycle instruction permit.*

e. The permit is valid for six months from the date of issuance. It is invalid after the expiration date on the permit.

f. The permit may be reissued for one additional six-month period.

602.21(2) No change.

This rule is intended to implement Iowa Code section 321.180A.

ITEM 7. Amend rule 761—602.25(321) as follows:

761—602.25(321) Minor's restricted license.

602.25(1) Validity and issuance.

a. A minor's restricted license is a restricted, noncommercial Class C or Class M driver's license.

b. The license is valid for driving to and from the licensee's place of employment or to transport dependents to and from temporary care facilities, if necessary to maintain the licensee's present employment.

c. ~~The license continues to be valid for these purposes when the person reenters school if the person completes the classroom portion of a driver education course as soon as the course is available.~~

d. The type of motor vehicle that may be operated is controlled by the class of driver's license issued. *A Class C minor's restricted license is valid for operating a motorcycle only if the license has a motorcycle endorsement. However,*

the A minor's restricted license is valid for operating a motorized bicycle only for the purposes specified in paragraph "b" of this subrule.

e. The license is issued for two years.

602.25(2) Requirements.

a. The applicant shall be at least 16 years of age but not yet 18.

b. The applicant shall submit to the department a statement from the employer confirming the applicant's employment. ~~The statement may be submitted on Form 430022.~~

c. ~~If the applicant is not attending school, proof of nonattendance shall be submitted to the department is required. The proof may be submitted on Form 430022 signed by the superintendent or principal of the last school attended. Proof of nonattendance is receipt of notification from the appropriate school authority that the applicant does not attend school, as set out in 761—subrule 615.23(2). The proof of nonattendance may also be a high school diploma, a high school equivalency certificate, or acceptance papers from an institution of higher education.~~

d. ~~If the applicant is attending school where an approved driver education course is not offered or available, a written statement from the school is required. The statement shall verify that a course is not offered or available within the district and shall be signed by the superintendent or principal of the school.~~

e. *The applicant shall submit proof of successful completion of an Iowa-approved course in driver education.*

f. For a Class M minor's restricted license or a motorcycle endorsement, the applicant shall also submit proof of successful completion of an Iowa-approved course in motorcycle rider education is required.

This rule is intended to implement Iowa Code sections 299.1B, 321.178, 321.180B, 321.189, and 321.196 and 321.213B.

ITEM 8. Amend rule 761—602.26(321) as follows:

761—602.26(321) Minor's school license.

602.26(1) Validity and issuance.

a. A minor's school license is a restricted, noncommercial Class C or Class M driver's license.

b. The license is valid for driving unaccompanied from 6 a.m. to 10 p.m. on the most direct route between a licensee's residence and schools of enrollment or the closest school bus stop or public transportation service, and between schools of enrollment, ~~from 6 a.m. to 10 p.m.~~ to attend scheduled courses and extracurricular activities within the school district.

c. The license is also valid for driving when the licensee is accompanied by a person specified in Iowa Code subsection 321.180B(1).

d. The type of motor vehicle that may be operated is controlled by the class of driver's license issued. *A Class C minor's school license is valid for operating a motorcycle only if the license has a motorcycle endorsement. However, the A minor's school license is valid for operating a motorized bicycle only for the purposes specified in paragraph "b" of this subrule.*

e. The license is issued for two years.

602.26(2) Requirements.

a. An applicant shall be at least 14 years of age but not yet 18 and meet the requirements of Iowa Code section 321.194.

b. An applicant shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized

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by the superintendent. The statement shall be on Form 430021.

c. An applicant shall submit proof of successful completion of an Iowa-approved course in driver education.

d. For a Class M minor's school license *or a motorcycle endorsement, an applicant shall also submit* proof of successful completion of an Iowa-approved course in motorcycle rider education ~~is required~~.

602.26(3) No change.

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

ITEM 9. Amend rule 761—604.21(321) as follows:

761—604.21(321) Knowledge test requirements and waivers.

604.21(1) Knowledge test requirements. The knowledge test requirements are as follows:

a. Operator's test. An operator's knowledge test is required for all classes of *driver's* licenses and all types of special *driver's* licenses and permits.

b. Motorcycle test. A motorcycle knowledge test is required for *all*:

(1) Motorcycle instruction permits.

(2) ~~All~~ Class M *driver's* licenses.

(3) *Motorcycle endorsements*.

c. Chauffeur's test. A chauffeur's knowledge test is required for *all*:

(1) Chauffeur's instruction permits.

(2) Class D *driver's* licenses except those with an endorsement for "passenger vehicle less than 16-passenger design."

604.21(2) Knowledge test waivers. The department may waive a knowledge test listed in subrule 604.21(1) if the applicant meets one of the following qualifications:

a. The applicant has passed the same type of test for another Iowa *driver's* license or an equivalent out-of-state license that is still valid.

b. The applicant has a valid, equivalent *driver's* license issued by a foreign jurisdiction with which Iowa has a non-binding reciprocity agreement.

c. The applicant has a military extension and is renewing ~~a noncommercial Class C or Class M the applicant's Iowa driver's license or the equivalent~~ within six months following separation from active duty.

This rule is intended to implement Iowa Code sections 321.180, 321.180A, *321.180B*, 321.186, 321.189, 321.196 and 321.198.

ITEM 10. Amend rule 761—604.31(321) as follows:

761—604.31(321) Driving test requirements and waivers for noncommercial driver's licenses.

604.31(1) Driving test requirements. The driving test requirements for noncommercial *driver's* licenses are as follows:

a. Instruction permits. A driving test is not required to obtain an instruction permit.

b. Class C *driver's* licenses. For a Class C *driver's* license other than an instruction permit or a motorized bicycle license, an operator's driving test in a representative vehicle is required.

c. Class D *driver's* licenses. For a Class D *driver's* license, a driving test in a representative vehicle for the endorsement requested, *as set out in 761—subrule 605.4(2)*, is required.

d. Class M *driver's* licenses *and motorcycle endorsements*. The driving test for a Class M *driver's* license *or mo-*

torcycle endorsement consists of two parts: an off-street motorcycle skill test and an on-street driving test.

(1) The off-street motorcycle skill test is required. The on-street motorcycle driving test is also required if the applicant does not have another ~~class of driver's~~ license that permits unaccompanied driving.

(2) A motorcycle shall be used for these tests. If a three-wheeled motorcycle is used, the *driver's* license shall be restricted: "Not valid for 2-wheel vehicle."

e. Motorized bicycle licenses. For a motorized bicycle license, an off-street or on-street driving test may be required. A motorized bicycle shall be used for the test.

604.31(2) Driving test waivers. The department may waive a required driving test listed in subrule 604.31(1) if the applicant meets one of the following qualifications:

a. The applicant is applying for the applicant's first Iowa *driver's* license that permits unaccompanied driving following successful completion of the appropriate Iowa-approved course or courses. The appropriate Iowa-approved courses are the following: driver education for a Class C *driver's* license other than motorized bicycle, driver education and motorcycle rider education for a Class M *driver's* license *or motorcycle endorsement*, and motorized bicycle education for a motorized bicycle license. However:

(1) The department may select dates and require a driving test of applicants whose birth dates fall on the selected dates. The department shall notify the Iowa department of education quarterly of the dates selected.

(2) If an applicant is under the age of ~~21~~ 18, a driving test is required if so requested by the applicant's parent, guardian, or instructor.

b. The applicant is renewing a Class C, Class D or Class M Iowa *driver's* license *or endorsement* within 14 months after the expiration date.

c. The applicant has passed the same type of driving test for another Iowa *driver's* license *or endorsement* that is still valid or has expired within the past 14 months.

d. The applicant has a military extension and is renewing ~~a Class C or Class M the applicant's Iowa driver's license or the equivalent~~ within six months following separation from active duty.

e. The applicant is applying for a Class C ~~or Class M~~ Iowa *driver's* license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past six months.

f. The applicant is applying for a Class D Iowa *driver's* license and has an equivalent out-of-state license that is valid or has expired within the past six months.

g. ~~The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past six months.~~

g h. The applicant has a valid, equivalent *driver's* license issued by a foreign jurisdiction with which Iowa has a non-binding reciprocity agreement.

This rule is intended to implement Iowa Code sections 321.174, 321.178, 321.180, 321.180A, *321.180B*, 321.186, 321.189, 321.193, 321.196 and 321.198.

ITEM 11. Amend subrule 605.2(2) as follows:

605.2(2) Physical description. The physical description of the licensee on the face of the *driver's* license shall include:

a. The licensee's eye color using these abbreviations: Blk-black, Blu-blue, Bro-brown, Gry-gray, Grn-green, Haz-hazel, and Pnk-pink.

b. The licensee's height in feet and inches.

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c.—The licensee's weight to the nearest pound.

ITEM 12. Amend rule 761—605.3(321) as follows:

761—605.3(321) License class. The driver's license class shall be coded on the face of the driver's license ~~in the box titled "CLASS", as a single class or a combination of Class M and another class~~ using these codes:

- Class A—commercial driver's license
- Class B—commercial driver's license
- Class C—commercial driver's license
- Class C—noncommercial driver's license
- Class D—noncommercial driver's license, chauffeur
- Class M—noncommercial driver's license, motorcycle only

This rule is intended to implement Iowa Code section 321.189.

ITEM 13. Amend rule 761—605.4(321) as follows:

761—605.4(321) Endorsements. The endorsements shall be coded on the face of the driver's license ~~in the box titled "ENDORSEMENTS" and explained in text on the back of the driver's license.~~

605.4(1) For a commercial driver's license. The following endorsements may be added to a Class A, B or C commercial driver's license using these letter codes:

- H—Hazardous material
- P—Passenger
- N—Tank
- X—Hazardous material and tank
- T—Double/triple trailers
- S—School bus

605.4(2) For a Class D (~~chauffeur's~~) driver's license (*chauffeur*). The following endorsements may be added to a Class D (~~chauffeur's~~) driver's license using these number codes:

- 1—Truck-tractor semitrailer combination
- 2—Vehicle with 16,001 pounds gross vehicle weight rating or more. Not valid for truck-tractor semitrailer combination
- 3—Passenger vehicle less than 16-passenger design

605.4(3) Motorcycle endorsement. A motorcycle endorsement may be added to any driver's license that permits unaccompanied driving, other than a Class M driver's license or a motorized bicycle license, using the following letter code:

- L—Motorcycle

This rule is intended to implement Iowa Code section 321.189.

ITEM 14. Amend rule 761—605.5(321) as follows:

761—605.5(321) Restrictions. Restrictions shall be coded on the face of the driver's license ~~in the box titled "RESTRICTIONS" and explained in text on the back of the driver's license.~~

605.5(1) For all licenses. The following restrictions may apply to any driver's license:

- B—Corrective lenses required
- C—Mechanical aid (as detailed in the restriction supplement on the back of the card)
- D—Prosthetic aid (as detailed in the restriction supplement on the back of the card)
- E—Automatic transmission
- F—Outside Left outside mirror
- G—No driving when headlights required
- H—Temporary restricted license or permit (work permit)
- I—Ignition interlock required

J—Temporary restricted license or permit (work permit)

J—Restrictions on the back of card

S—SR required (proof of financial responsibility for the future)

T—Medical report required at renewal

U—Not valid for 2-wheel vehicle

V—Left and right outside mirrors

W—Medical report upon renewal

W—Restricted commercial driver's license (CDL)

X—Restriction supplement, with the restriction explained on the reverse side of the license (on digitally issued photo licenses)

Y—Intermediate license

605.5(2) For a noncommercial driver's license. The following restrictions apply only to a noncommercial driver's license:

P—Special instruction permit

Q—No interstate or freeway driving

R—Maximum speed of 35 mph

605.5(3) For a commercial driver's license. The following restrictions apply only to a commercial driver's license:

K—Commercial driver's license intrastate only

L—Vehicle without air brakes

8—Class B passenger vehicle

9—Class C passenger vehicle

M—Except Class A bus

N—Except Class A and Class B bus

O—Except tractor-trailer

605.5(4) Special licenses. A numbered restriction will designate a special driver's license using these codes:

1—Motorcycle instruction permit

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)

3—Commercial driver's instruction permit

4—Chauffeur's instruction permit

5—Motorized bicycle license

6—Minor's restricted license

7—Minor's school license

605.5(5) Restriction supplement. On a nondigitally issued photo license, there is a box for the restriction supplement on the face of the license. The box is titled "RS". If the box is marked "N", there is no restriction supplement. If a "Y" is entered in the box, a restriction supplement must be carried with the license for the license to be valid. A restriction supplement will contain the following information:

a. Name of the licensee.

b. Driver's license number.

c. Audit number.

d. Birth date of the licensee.

e. Statement of the restriction.

605.5(6) 605.5(5) Additional information.

a. and b. No change.

c. Loss of consciousness or voluntary control.

(1) If a person is licensed pursuant to 761—subrule 600.4(4), the department shall issue the first driver's license with a restriction supplement reading stating: "Medical report to be furnished at the end of six months."

(2) If this medical report shows that the person has been free of episodes of loss of consciousness or voluntary control since the previous medical report and the report recommends licensing, the department shall issue a duplicate driver's license with a restriction supplement reading stating: "Medical report upon required at renewal." At each renewal accompanied by a favorable medical report, the department shall issue a two-year driver's license with the same restriction.

(3) No change.

TRANSPORTATION DEPARTMENT[761](cont'd)

d. and e. No change.

This rule is intended to implement Iowa Code chapter 321A and sections 321.178, 321.180, 321.180A, 321.180B, 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20.

ITEM 15. Amend rule 761—605.20(321) as follows:

761—605.20(321) Fee adjustment for upgrading license. The fee for upgrading a *driver's* license shall be computed on a full-year basis. The fee is charged for each year or part of a year between the date of the change and the expiration date on the license.

605.20(1) The fee to upgrade a *driver's* license from one class to another is determined by computing the difference between the current license fee and the new license fee as follows:

a. Converting a noncommercial Class C to ~~noncommercial~~ Class D—\$4 per year of new license validity.

b. ~~Adding noncommercial Class D to noncommercial~~ Converting Class M to Class D with a motorcycle endorsement—\$4 per year of new license validity.

c. ~~Adding noncommercial Class M to noncommercial~~ Class C or D—\$1 per year of new license validity.

d. ~~c. Adding noncommercial Class C to noncommercial~~ Converting Class M to noncommercial Class C with a motorcycle endorsement—\$1 one-time fee.

605.20(2) The fee to add a privilege to a *driver's* license is computed per year of new license validity as follows:

Noncommercial Class C	
(full privileges from a restricted Class C)	\$4 per year
Motorized bicycle	\$4 per year
Minor's restricted license	\$4 per year
Minor's school license	\$4 per year
Instruction permit, noncommercial	\$3 per year
Chauffeur's instruction permit	\$6 per year
Motorcycle instruction permit	\$1 per year
Motorcycle endorsement	\$1 per year

This rule is intended to implement Iowa Code sections 321.189 and 321.191.

ITEM 16. Amend rule 761—607.16(321) as follows:

761—607.16(321) Commercial driver's license (CDL).

607.16(1) Classes. The department may issue a commercial driver's license only as a Class A, B or C *driver's* license, ~~or a combination of Class M with a Class A, B or C license.~~ The license class identifies the types of vehicles that may be operated. A commercial driver's license may have endorsements which authorize additional vehicle operations or restrictions which limit vehicle operations.

607.16(2) Validity.

a. A Class A commercial driver's license allows a person to operate a combination of commercial motor vehicles as specified in Iowa Code paragraph 321.189(1)"a." With the required endorsements and subject to the applicable restrictions, a Class A *commercial driver's* license is valid to operate any vehicle ~~except a motorcycle.~~

b. A Class B commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)"b." With the required endorsements and subject to the applicable restrictions, a Class B *commercial driver's* license is valid to operate any vehicle except ~~a motorcycle, a truck-tractor semitrailer combination as a chauffeur (Class D), or a vehicle requiring a Class A~~ *commercial driver's* license.

c. A Class C commercial driver's license allows a person to operate a commercial motor vehicle as specified in Iowa Code paragraph 321.189(1)"c." With the required endorse-

ments and subject to the applicable restrictions, a Class C *commercial driver's* license is valid to operate any vehicle except ~~a motorcycle, a truck-tractor semitrailer combination as a chauffeur (Class D), or a vehicle requiring a Class A or Class B~~ *commercial driver's* license.

d. A commercial driver's license is ~~not~~ valid for operating a motorcycle as a commercial motor vehicle ~~unless only if~~ the license is ~~also a Class M license with~~ has a motorcycle endorsement and a hazardous material endorsement. A *commercial driver's* license is valid for operating a motorcycle as a noncommercial motor vehicle only if the license has a motorcycle endorsement.

e. A commercial driver's license valid for five years shall be issued to a qualified applicant who is at least 18 years of age but not yet 70 years of age.

f. A commercial driver's license valid for two years shall be issued to a qualified applicant 70 years of age or older. A two-year license may also be issued, at the discretion of the department, to an applicant whose license is restricted due to vision or other physical disabilities.

g. A commercial driver's license is valid for 60 days after the expiration date.

h. A person with a commercial driver's license valid for the vehicle operated is not required to obtain a Class D *driver's* license to operate the vehicle as a chauffeur.

607.16(3) Requirements.

a. The minimum age to obtain a commercial driver's license is 18 years.

b. The applicant shall meet the requirements of Iowa Code sections 321.182 and 321.188.

This rule is intended to implement Iowa Code sections 321.177, 321.182, 321.188, 321.189, and 321.196.

ITEM 17. Amend rule 761—607.18(321) as follows:

761—607.18(321) Restrictions. The restrictions that may limit commercial motor vehicle operation with a commercial driver's license are *listed in 761—subrule 605.5(3) and are explained below:*

607.18(1) Air brake. The air brake restriction (~~Veh w/o Airbrakes~~) (*Vehicle without air brakes*) prohibits the operation of a commercial motor vehicle equipped with an air brake system, as defined in rule 607.3(321), until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when renewing the license.

607.18(2) Intrastate only. ~~Reserved.~~ *Class B vehicle. The Class B vehicle restriction (except tractor-trailer) prohibits operation of a motor vehicle that meets the criteria for a Class A commercial motor vehicle.*

607.18(3) Class B passenger vehicle. The Class B passenger vehicle restriction (~~Class B Pass Veh~~) (*except Class A bus*) prohibits operation of a passenger vehicle that meets the criteria for a Class A commercial motor vehicle.

607.18(4) Class C passenger vehicle. The Class C passenger vehicle restriction (~~Class C Pass Veh~~) (*except Class A and Class B bus*) prohibits operation of a passenger vehicle that meets the criteria for a Class A or Class B commercial motor vehicle.

This rule is intended to implement Iowa Code section ~~sections~~ 321.189 and 321.191.

ITEM 18. Amend subrule **607.49(6)**, paragraphs "b" and "g," as follows:

b. A restricted commercial driver's license shall be ~~identified as such~~ coded with restriction "W" on the face of the driver's license, with the restriction explained in text on the back of the driver's license. In addition, the license shall be

TRANSPORTATION DEPARTMENT[761](cont'd)

issued with a restriction supplement stating the license's validity. ~~The restriction supplement must be carried with the license, as provided in 761—subrule 605.5(5).~~

g. A restricted commercial driver's license must be validated for commercial motor vehicle operation for each seasonal period. This means that the applicant/licensee must appear at a driver's license examination station during the current seasonal period or not more than 30 days before the beginning of the period to have the person's good driving record confirmed. Upon confirmation, the department shall issue a replacement license with a restriction supplement validating the license for that seasonal period, provided the person is otherwise eligible for the license. The fee for a replacement license shall be as specified in Iowa Code section 321.195.

ITEM 19. Amend subrule 615.23(2) as follows:

615.23(2) Suspension for juvenile's failure to attend school.

a. The department shall suspend the *driver's* license of a person under the age of 18 upon receipt of notification from the appropriate school authority that the person does not attend school.

b. "School" means a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of Iowa Code chapter 299A, an alternative school or adult education classes.

c. "Appropriate school authority" means the superintendent of a public school or the chief administrator of an accredited nonpublic school, an alternative school or adult education.

d. The suspension shall continue until the person reaches the age of 18 or until the department receives notification from the appropriate school authority that the person is attending school.

e. The department may issue to the person a ~~temporary~~ *minor's* restricted license in accordance with *Iowa Code section 321.178 and rule 761—615.45(324) 761—602.25(321)* if the person is ~~employed at least 20 hours per week and is~~ otherwise eligible for the license.

ITEM 20. Rescind and reserve rule **761—615.25(321)**.

ITEM 21. Amend subrule 615.42(1) as follows:

615.42(1) The department shall require remedial driver improvement action when a person holding an instruction permit, ~~or an intermediate license or a full-privilege driver's license~~ under Iowa Code section 321.180B is convicted of a moving violation or has a contributive accident *and the violation or accident occurred during the term of the instruction permit or intermediate license*.

ITEM 22. Amend rule 761—615.43(321) as follows:

761—615.43(321) Driver improvement program.

615.43(1) When required.

a. In lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

(1) A habitual violator.

(2) A person who is convicted for speeding at least 25 but not more than 29 miles per hour over the legal limit.

(3) *A person whose license is subject to suspension under Iowa Code section 321.210C.*

b. However, a person shall not be assigned to a driver improvement program more than once within a two-year period.

615.43(2) to 615.43(4) No change.

This rule is intended to implement Iowa Code section *sections 321.210 and 321.210C*.

ITEM 23. Amend rule 761—620.10(321J) as follows:

761—620.10(321J) Revocation for deferred judgment.

The revocation period under Iowa Code subsection *321J.4(2) 321J.4(3)* shall be 90 days.

ITEM 24. Amend rule 761—630.2(321) as follows:

761—630.2(321) Application and issuance.

630.2(1) and 630.2(2) No change.

630.2(3) The nonoperator's identification card shall be coded for identification only, as explained on the reverse side of the card. The county number shall indicate the county of residence. The card shall expire ~~four~~ *five* years from the date of issue *if the applicant is under the age of 70*.

630.2(4) and 620.2(5) No change.

630.2(6) This subrule establishes the ~~pilot project authorized by 2000 Iowa Acts, House File 2538, section 5 criteria for waiver or refund of fees.~~

a. to c. No change.

d. ~~This pilot project is limited to issuance activity at the driver's license stations in Burlington, Iowa, and Davenport, Iowa.~~

ITEM 25. Amend **761—Chapter 630**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 321.189, 321.190, *321.192*, 321.195, 321.216, 321.216A, 321.216B and 321.216C.

ITEM 26. Amend subrule 634.6(1) as follows:

634.6(1) Hold a valid Iowa driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

ITEM 27. Amend subrule **634.7(1)**, paragraph "**b**," as follows:

b. Hold a valid Iowa driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

ITEM 28. Amend subrule 635.2(9) as follows:

635.2(9) The driving test for a Class M driver's license *or a motorcycle endorsement* may be waived under 761—subrule 604.31(2) provided the applicant has successfully completed the approved course.

ITEM 29. Amend paragraph **635.3(2)"a"** as follows:

a. Possess a valid Class M ~~or equivalent~~ driver's license ~~which or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.~~

ITEM 30. Amend subparagraph **635.5(2)"a"(1)** as follows:

(1) Possesses a valid Class M ~~or equivalent~~ driver's license ~~which or a motorcycle endorsement or equivalent license or endorsement that is valid for a two-wheel motorcycle.~~

ARC 5329B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 750, "Aircraft Registration," Iowa Administrative Code.

This amendment corrects the name of the office, Internet address and mailing address for aircraft registration. The Office of Aviation is responsible for registering aircraft.

This amendment does not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than September 19, 2006.

A meeting to hear requested oral presentations is scheduled for Thursday, September 21, 2006, at 10 a.m. in the Modal Conference Room of the Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

This amendment is intended to implement Iowa Code chapter 17A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making action:

Amend rule 761—750.3(17A) as follows:

761—750.3(17A) Information and forms. Information, instructions and forms are available from the ~~office of vehicle services office of aviation~~ or on the department's Web site at <http://www.iamvd.com> <http://www.iawings.com>. Application forms may also be obtained from aircraft dealers. The mailing address ~~of vehicle services for aircraft registration~~ is: ~~Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278 Iowa Department of Transportation, Office of Aviation, Aircraft Registration, 800 Lincoln Way, Ames, IA 50010. The office is lo-~~

cated in Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

This rule is intended to implement Iowa Code section 17A.3.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

September 1, 2005 — September 30, 2005	6.25%
October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%
January 1, 2006 — January 31, 2006	6.50%
February 1, 2006 — February 28, 2006	6.50%
March 1, 2006 — March 31, 2006	6.50%
April 1, 2006 — April 30, 2006	6.50%
May 1, 2006 — May 31, 2006	6.75%
June 1, 2006 — June 30, 2006	7.00%
July 1, 2006 — July 31, 2006	7.00%
August 1, 2006 — August 31, 2006	7.25%
September 1, 2006 — September 30, 2006	7.00%

ARC 5331B**WORKERS' COMPENSATION
DIVISION[876]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby gives Notice of Intended Action to amend Chapter 3, "Forms," Chapter 4, "Contested Cases," and Chapter 6, "Settlements and Commutations," Iowa Administrative Code.

Items 1 and 4 through 8 relate to forms and procedures to be used and followed in workers' compensation settlements and commutations subject to approval by the Workers' Compensation Commissioner. Item 2 relates to including E-mail addresses and fax numbers in contested case proceedings. Item 3 relates to reimbursement of the costs of a transcript when an appeal from a proposed decision in a contested case proceeding is made to the Workers' Compensation Commissioner.

The Division has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 19, 2006, to the Workers' Compensation Commissioner, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319.

These amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

WORKERS' COMPENSATION DIVISION[876](cont'd)

These amendments are intended to implement Iowa Code Supplement section 85.35 and sections 17A.3(1)“b,” 17A.12, 17A.15, 85.45, 85.47, 85.48, 86.8, 86.13, 86.19, 86.24(1), 86.24(2) and 86.27.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 876—3.1(17A) as follows:

Rescind and reserve subrules **3.1(5)**, **3.1(15)**, **3.1(16)** and **3.1(20)**.

Adopt the following **new** subrules:

3.1(21) Form—agreement for settlement. (Form No. 14-0021) This form is used to file an agreement for settlement pursuant to Iowa Code Supplement section 85.35(2).

3.1(22) Form—compromise settlement. (Form No. 14-0025) This form is used to file a compromise settlement pursuant to Iowa Code Supplement section 85.35(3).

3.1(23) Form—combination settlement. (Form No. 14-0159) This form is used to file a combination settlement pursuant to Iowa Code Supplement section 85.35(4).

3.1(24) Form—contingent settlement. (Form No. 14-0161) This form is used to file a contingent settlement pursuant to Iowa Code Supplement section 85.35(5).

3.1(25) Form—claimant's statement. (Form No. 14-0163) This form is used for any type of settlement when the claimant is not represented by an attorney.

ITEM 2. Amend subrule 4.9(1) as follows:

4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent. *The appearance shall include the E-mail address and the fax number of the respondent, if available, if the respondent is not represented by counsel.* The caption of an answer shall disclose the file number of the compliance file in which the first report of injury was filed for the injury that is alleged in the original notice and petition.

ITEM 3. Amend rule 876—4.30(86,17A) as follows:

876—4.30(86,17A) Transcript on appeal or review. When an appeal to or review on motion of the commissioner is taken pursuant to 4.27(17A,86) or 4.29(86,17A), a transcript of the proceedings before the workers' compensation commissioner shall be filed with the workers' compensation commissioner within 30 days after the notice of the appeal is filed with the workers' compensation commissioner. The appealing party shall bear the initial cost of transcription on appeal and shall pay the certified shorthand reporter or service for the transcript. In the event there is a cross-appeal, the appellant and cross-appellant shall share the cost of the transcript. In the event the cost of the transcript has been initially borne by a nonappealing party prior to appeal, ~~the appealing party or parties~~ *nonappealing party is entitled to reimbursement* within 30 days after notice of appeal or cross-appeal shall reimburse the cost of the transcript to the nonappealing party and if *serving on the appealing party proof of the cost of the transcript.* If not so reimbursed, the appeal shall *may* be dismissed.

ITEM 4. Amend rule 876—6.1(85,86) as follows:

876—6.1(85,86) ~~Compromise settlements~~ Settlements under Iowa Code Supplement section 85.35. All agreements providing for the final compromise settlement of a case where liability under the Workers' Compensation Act is disputed

~~shall be reduced to writing and submitted to the workers' compensation commissioner for approval, together with such testimony or other evidence as may be required to establish that a bona fide dispute exists under Iowa Code section 85.35. Unless otherwise ordered by the workers' compensation commissioner or deputy workers' compensation commissioner an application for approval of compromise settlement shall not be accepted for filing if accompanied by documentation in excess of 20 pages. An order approving an application accompanied by documentary evidence in excess of 20 pages is nevertheless valid, and is neither void nor voidable. Any such settlement, when approved by the workers' compensation commissioner, shall be binding upon the parties thereto and not subject to review under Iowa Code section 85.26(2). All proposed settlements shall be submitted to the workers' compensation commissioner for approval. An agreement for settlement pursuant to Iowa Code Supplement section 85.35(2) shall be on Form 14-0021. A compromise settlement pursuant to Iowa Code Supplement section 85.35(3) shall be on Form 14-0025. A combination settlement pursuant to Iowa Code Supplement section 85.35(4) shall be on Form 14-0159. A contingent settlement pursuant to Iowa Code Supplement section 85.35(5) shall be on Form 14-0161.~~

6.1(1) When the claimant, in a matter over which the workers' compensation commissioner has jurisdiction, is represented by an attorney licensed to practice in this state, and the claimant and the claimant's attorney agree that evidence of a bona fide dispute exists as to the enumerated factors of Iowa Code section 85.35, and the parties set forth a specific statement of facts of the bona fide dispute and allege that such facts are true, the professional statement of counsel for the parties shall constitute prima facie evidence that a bona fide dispute exists as required by Iowa Code section 85.35. *Evidence that a settlement should be approved as required by Iowa Code Supplement section 85.35(7) shall accompany the settlement or be incorporated into the settlement forms. It is presumed that the showing required by Iowa Code Supplement section 85.35(7) has been made if the claimant is represented by an attorney licensed to practice law in this state.*

6.1(2) ~~Nothing in the preceding paragraph shall prohibit the approval of settlements or commutations in other appropriate cases. The documents for a compromise settlement shall identify either the specific date or dates of injury or the specific injurious condition or conditions, or both. The documents for a compromise settlement, including any addendum to the documents, shall not contain any language that either expressly states or implies that the proposed compromise settlement is a final settlement of any and all injuries, known or unknown, that an employee may have sustained while employed by the employer. If a compromise settlement is submitted that does not comply with this subrule, the workers' compensation commissioner shall return the proposed compromise settlement to the party who submitted it.~~

6.1(3) Approval of a compromise settlement pursuant to Iowa Code Supplement section 85.35(3) is a final bar to rights under the Iowa Workers' Compensation Law, and the approved compromise settlement is not subject to review under Iowa Code section 85.26(2).

6.1(4) Nothing in this rule shall prohibit the approval of settlements in other appropriate cases when allowed by Iowa Code Supplement section 85.35(7).

This rule is intended to implement Iowa Code Supplement section 85.35.

ITEM 5. Rescind and reserve subrule **6.2(9)**.

WORKERS' COMPENSATION DIVISION[876](cont'd)

ITEM 6. Amend rule 876—6.5(85) as follows:

876—6.5(85) Statement of awareness. ~~Whenever~~ When a petition for settlement under Iowa Code *Supplement* section 85.35(3) or commutation ~~shall be~~ is submitted, it shall contain or be accompanied by a verified statement from the injured employee indicating awareness that, upon approval by the workers' compensation commissioner of the settlement or commutation, a final bar to future claims or benefits under the Iowa Workers' Compensation Law for such injury shall exist except as specifically reserved in any agreement.

This rule is intended to implement Iowa Code *Supplement* section 85.35 and sections ~~85.35~~, 85.45 and 85.47.

ITEM 7. Amend rule 876—6.6(86) as follows:

876—6.6(86) Agreement for settlement Twenty-page limitation. Unless otherwise ordered by the workers' compensation commissioner or deputy workers' compensation commissioner, an application for approval of ~~an agreement for a settlement or an original notice and petition for approval of a commutation or partial commutation~~ shall not be accepted for filing if accompanied by documentation in excess of 20 pages. An order approving ~~an application a settlement or an original notice and petition for commutation or partial commutation~~ accompanied by documentary evidence in excess of 20 pages is nevertheless valid, and is neither void nor voidable.

ITEM 8. Amend 876—Chapter 6 by adopting the following new rules:

876—6.7(85,86) Claimant statement. When the claimant is not represented by counsel, a claimant's statement on Form 14-0163, which the claimant has personally completed, certified and signed, must be submitted with all settlement and commutation forms and documents.

This rule is intended to implement Iowa Code Supplement section 85.35 and section 86.8.

876—6.8(85,86) Failure to timely file settlement. If a party notifies the workers' compensation commissioner that a matter scheduled for a hearing has been settled and the matter is removed from the hearing schedule, the proposed settlement shall be filed with the workers' compensation commissioner within 60 days of the notification. A party may, within 60 days of the notification, request an extension of time to file the settlement documents. If the settlement documents are not timely filed, the matter will be reassigned for hearing in Des Moines at a date determined by the workers' compensation commissioner and the parties cannot request that the matter be rescheduled. Any matter rescheduled because settlement documents were not timely filed shall not again be removed from the hearing schedule because a party notifies the workers' compensation commissioner of a settlement.

This rule is intended to implement Iowa Code Supplement section 85.35 and sections 85.47, 85.48, 86.8, 86.13 and 86.27.

ARC 5334B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

These amendments add a self-directed service alternative, called the "consumer choices option," to six Medicaid home- and community-based services waivers: the ill and handicapped waiver, the elderly waiver, the mental retardation waiver, the AIDS/HIV waiver, the brain injury waiver, and the physical disability waiver. The amendments define the services and necessary components of the consumer choices option, as well as provider qualifications, provider rates, and consumer eligibility.

Under the consumer choices option, a waiver consumer may "cash out" the value of certain services in the consumer's individual service plan. These services may include assistive devices, chore service, consumer-directed attendant care (unskilled), day habilitation, home and vehicle modification, home-delivered meals, homemaker service, prevocational services, basic individual respite care, senior companion, specialized medical equipment, supported community living, supported employment, and transportation, as applicable to the particular waiver.

The amount expected to be spent on these services becomes an "individual budget" for the consumer. Instead of receiving waiver services from enrolled Medicaid providers that are subject to Medicaid certification and billing procedures, the consumer may use the funds in the individual budget independently to hire people to provide self-directed personal care services or self-directed community supports and employment and to purchase services, equipment, or supplies that are not otherwise provided through the Medicaid program. Consumers may not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.

The consumer must choose an independent support broker to help plan and carry out the consumer's individual budget for services. The funds allocated to the individual budget are transferred to a financial management service, which is responsible for paying for the goods and services the consumer purchases. The financial management service is responsible for accounting and for employer-related duties such as withholding taxes, issuing paychecks, and verifying that wages comply with federal and state labor rules. The costs of the independent support broker and the financial management service come from the consumer's individual service budget.

Only the financial management service is an enrolled Medicaid provider and receives funds through the Iowa Medicaid Enterprise. All of the other providers are employed by the consumer and are paid through the financial management service. Grants for start-up costs for financial management services will be available for a limited period through funds from the Robert Wood Johnson Foundation.

These amendments also include technical changes to:

- Replace references to the Iowa Foundation for Medical Care with references to the Iowa Medicaid Enterprise Medical Services Unit, to conform to the current organization of the Department.
- Replace references to the Long-Term Care Coordinating Unit in the Department of Elder Affairs with references to the Senior Living Coordinating Unit, to conform to statutory changes.
- Replace references to Department "regional administrators" with references to "service area managers."

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 15, 2006, as **ARC 4980B**. The Department received five comments on the Notice of Intended Action. The Department has made the following changes to the noticed rules in response to comments:

1. Subrule 77.30(14), paragraph "b," is amended to read, "The broker shall not be the consumer's guardian, conservator, attorney in fact under a durable power of attorney for health care, power of attorney for financial matters, trustee, or representative payee." The Department received arguments on both sides of the question of whether a guardian should be allowed to be an independent support broker and has opted to refuse this role to any person who has legal authority over the consumer. This change also applies by reference to subrules 77.33(17), 77.34(10), 77.37(29), 77.39(27), and 77.41(8).

2. Paragraph "a" of subrules 77.30(15), 77.30(16), and 77.30(17) has been divided into paragraph "a" for business providers and paragraph "b" for individual providers. Noticed paragraphs "b" and "c" of each subrule have been relettered as "c" and "d." Language is added to require business providers to have necessary permits and current liability and workers' compensation coverage. Language is added to require an individual provider to have a valid driver's license if providing transportation. This change also applies by reference to subrules 77.33(18) to 77.33(20), 77.34(11) to 77.34(13), 77.37(30) to 77.37(32), 77.39(28) to 77.39(30), and 77.41(9) to 77.41(11).

In addition, subrule 77.30(17), relettered paragraph "c," is corrected to refer to self-directed community supports and employment instead of individual-directed goods and supports. This change also applies by reference to subrules 77.33(20), 77.34(13), 77.37(32), 77.39(30), and 77.41(11).

Subrules 77.30(15), 77.30(16) and 77.30(17) now read as follows:

"77.30(15) Self-directed personal care. Consumers who elect the consumer choices option may choose to purchase self-directed personal care services from an individual or business that meets the following requirements.

"a. A business providing self-directed personal care services shall:

"(1) Have all the necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations; and

"(2) Have current liability and workers' compensation coverage.

"b. An individual providing self-directed personal care services shall have all the necessary licenses required by federal, state, and local laws, including a valid driver's license if providing transportation.

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"c. All personnel providing self-directed personal care services shall:

"(1) Be at least 16 years of age; and

"(2) Be able to communicate successfully with the consumer.

"d. The provider of self-directed personal care services shall:

"(1) Prepare timecards or invoices approved by the department that identify what services were provided and the time when services were provided.

"(2) Submit invoices and timecards to the financial management service within 30 days from the date when the service was provided.

"**77.30(16)** Individual-directed goods and services. Consumers who elect the consumer choices option may choose to purchase individual-directed goods and services from an individual or business that meets the following requirements.

"a. A business providing individual-directed goods and services shall:

"(1) Have all the necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations; and

"(2) Have current liability and workers' compensation coverage.

"b. An individual providing individual-directed goods and services shall have all the necessary licenses required by federal, state, and local laws, including a valid driver's license if providing transportation.

"c. All personnel providing individual-directed goods and services shall:

"(1) Be at least 18 years of age; and

"(2) Be able to communicate successfully with the consumer.

"d. The provider of individual-directed goods and services shall:

"(1) Prepare timecards or invoices approved by the department that identify what services were provided and the time when services were provided.

"(2) Submit invoices and timecards to the financial management service within 30 days from the date when the service was provided.

"**77.30(17)** Self-directed community supports and employment. Consumers who elect the consumer choices option may choose to purchase self-directed community supports and employment from an individual or business that meets the following requirements.

"a. A business providing community supports and employment shall:

"(1) Have all the necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations; and

"(2) Have current liability and workers' compensation coverage.

"b. An individual providing self-directed community supports and employment shall have all the necessary licenses required by federal, state, and local laws, including a valid driver's license if providing transportation.

"c. All personnel providing self-directed community supports and employment shall:

"(1) Be at least 18 years of age; and

"(2) Be able to communicate successfully with the consumer.

"d. The provider of self-directed community supports and employment shall:

"(1) Prepare timecards or invoices approved by the department that identify what services were provided and the time when services were provided.

"(2) Submit invoices and timecards to the financial management service within 30 days from the date when the service was provided."

3. Subparagraphs 78.34(13)"c"(2), 78.37(16)"c"(2), 78.38(9)"c"(2), 78.41(15)"c"(2), 78.43(15)"c"(2), and 78.46(6)"c"(2) are revised to add the phrase "assumes the risk for this action." The resulting sentence reads, "If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement."

The Council on Human Services adopted these amendments on August 9, 2006.

The Department finds that these amendments confer a benefit on waiver consumers by allowing consumers more flexibility in arranging services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments shall be waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on October 1, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 77 to 79, 83] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4980B**, IAB 3/15/06.

[Filed Emergency After Notice 8/10/06, effective 10/1/06]
[Published 8/30/06]

[For replacement pages for IAC, see IAC Supplement 8/30/06.]

ARC 5354B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting," Iowa Administrative Code.

Chapter 91 gives the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, areas open or closed to hunting, and means and methods of taking. Season dates are adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5018B**. A public hearing was held on April 18, 2006. The following changes were made from the Notice of Intended Action: The zone boundary for hunting ducks was moved from Interstate 80 to U.S. Highway 30; the Canada goose season was lengthened from 70 to 90 days; the daily bag limit for hooded mergansers was increased from one to two; the daily bag limit for

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brant was decreased from two to one; and special seasons for canvasbacks and pintail were eliminated. These species may be hunted during the regular seasons.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on August 11, 2006, as they confer a benefit to the public by giving maximum notice to hunters about the 2006 hunting season.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

These amendments became effective August 11, 2006.

The following amendments are adopted.

ITEM 1. Amend subrules 91.1(1) to 91.1(4) as follows:

91.1(1) Zone boundaries. The north duck hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59 State Highway 183, south to I-80 and along I-80 northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The south duck hunting zone is the remainder of the state.

91.1(2) Season dates - north zone. ~~For canvasbacks: October 22 through November 20. For all other species ducks: September 17 23 through September 24 27 and October 15 14 through December 8 7.~~

91.1(3) Season dates - south zone. ~~For canvasbacks: October 29 through November 27. For all other species ducks: September 24 23 through September 28 27 and October 22 21 through December 15 14.~~

91.1(4) Bag limit. The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 2 wood ducks, 1 pintail, 2 scaup, 3 mottled ducks, 1 canvasback, and 2 redheads. The daily bag limit of mergansers is 5, only 1 2 of which may be a hooded merganser *mergamers*.

ITEM 2. Amend subrules 91.3(2) to 91.3(4) as follows:

91.3(2) Season dates - north zone. Canada geese and brant: ~~October 1 September 30 through October 9 December 10 October 15 through December 4 and December 24 16 through January 2, 2006 2007.~~ White-fronted geese: ~~October 1 September 30 through December 11 10.~~ Light geese (white and blue-phase snow geese and Ross' geese): ~~October 1 September 30 through January 15, 2006 14, 2007.~~

91.3(3) Season dates - south zone. Canada geese and brant: ~~October 1 September 30 through October 9 8 and October 22 21 through December 4 January 9, 2007 and December 24 through January 9, 2006.~~ White-fronted geese: ~~October 1 September 30 through December 11 10.~~ Light geese (white and blue-phase snow geese and Ross' geese): ~~October 1 September 30 through January 15, 2006 14, 2007.~~

91.3(4) Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 1 brant, and 20 snow geese.

ITEM 3. Amend subrule 91.3(7), introductory paragraph, as follows:

91.3(7) Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 16, 2006 15, 2007, through April 15, 2006 2007.

ITEM 4. Amend subrule **91.3(8)**, paragraph “b,” as follows:

b. Season dates. September 10 9 through and September 11 10.

ITEM 5. Rescind and reserve subrule **91.4(2)**, paragraph “1.”

ITEM 6. Amend rule 571—91.6(481A) as follows:

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on October 8 and 9, 2005 7 and 8, 2006, in the north duck hunting zone and October 8 and 9, 2005 7 and 8, 2006, in the south duck hunting zone. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/11/06, effective 8/11/06]

[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5341B

EDUCATIONAL EXAMINERS
BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

This amendment is intended to provide recognition of the professional nurses already working in school districts. In order to obtain a statement of professional recognition, the applicant must hold a registered nurse license from the Iowa Board of Nursing and be employed with a district.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5157B**. A public hearing on the amendment was held on June 27, 2006. One person attended the public hearing, and several written comments were received. The comments made at the public hearing and the written comments contained the same basic message; it is the position of the Iowa Nurses Association and several nurses that the Statement of Professional Recognition (SPR) should only be for nurses with a four-year degree. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 4, 2006. The following amendment is adopted.

Amend subrule 14.140(11) as follows:

14.140(11) School nurse.

a. *School nurse endorsement.*

1. Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

2. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See 14.123(3) and 14.123(4).

(4) Content:

1. • Organization and administration of school nurse services including the appraisal of the health needs of children and youth.

2. • School-community relationships and resources/coordination of school and community resources to serve the health needs of children and youth.

3. • Knowledge and understanding of the health needs of exceptional children.

4. • Health education.

e. (3) Other. Hold a license as a registered nurse issued by the Iowa board of nursing.

NOTE: Although the school nurse endorsement does not authorize general classroom teaching, it does authorize the holder to teach health at all grade levels.

b. *Requirements for a statement of professional recognition (SPR) for school nurses. If a person has passed the registered nurses examination and is licensed by the Iowa board*

of nursing, the person may obtain a statement of professional recognition (SPR) from the board of educational examiners.

(1) *An applicant will be issued an SPR if the applicant:*

1. *Has passed the registered nurses examination and is licensed by the Iowa board of nursing.*

2. *While employed by an accredited K-12 school district, maintains licensure with the Iowa board of nursing.*

(2) *Renewal requirements for the SPR are as follows:*

1. *The applicant must apply for renewal every five years.*

2. *The applicant must maintain continual licensure with the Iowa board of nursing.*

3. *The applicant must complete continuing education as required by the Iowa board of nursing.*

(3) *The school nurse SPR shall be valid for five years.*

(4) *All fees are nonrefundable. The fee for issuance of the SPR certificate shall be the same as for a standard license.*

(5) *The holder of an SPR is authorized to promote the health and safety of the students in an accredited school district, including providing medical treatment as allowed under the authority granted by virtue of holding a license from the Iowa board of nursing.*

(6) *A school district may require an SPR, but the board of educational examiners does not require an SPR for nurses working in a school district.*

[Filed 8/11/06, effective 10/4/06]

[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5342B

EDUCATIONAL EXAMINERS
BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

Currently, Iowa does not have any method of recognizing, monitoring, or evaluating the required professional orientation and mobility specialist service providers. In addition, Iowa does not have reciprocity with other states and would not be able to recognize other states' licensure or endorsement for orientation and mobility. In an effort to be fair and ethical, the Educational Examiners Board has developed competencies and requirements that are modeled after what is expected from other professionals who are teaching children and youth in the state of Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5158B**. A public hearing on the amendment was held on June 27, 2006. One person attended the public hearing and offered support for the proposed rules. No written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 4, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [15.3 to 15.20] is being omitted. These rules are

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identical to those published under Notice as **ARC 5158B**, IAB 6/7/06.

[Filed 8/11/06, effective 10/4/06]
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[For replacement pages for IAC, see IAC Supplement 8/30/06.]

ARC 5337B

ELDER AFFAIRS DEPARTMENT[321]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby amends Chapter 6, "Area Agency on Aging Planning and Administration," Iowa Administrative Code.

The amendment establishes the membership, structure, scope, function, orientation, and training of an Area Agency on Aging Board of Directors.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5138B**. A public hearing on the amendment was held over the Iowa Communications Network (ICN) on June 28, 2006. No comments were received regarding the requirements specified in these rules. This amendment is identical to that published under Notice.

The Commission adopted this amendment during its regularly scheduled meeting on August 4, 2006.

This amendment is intended to implement Iowa Code chapter 231.

This amendment will become effective October 4, 2006. The following amendment is adopted.

Renumber rules **321—6.7(231)** through **321—6.16(231)** as **321—6.8(231)** through **321—6.17(231)** and adopt the following new rule:

321—6.7(231) AAA board of directors.

6.7(1) Each designated AAA shall establish a board of directors in accordance with its individual articles of incorporation and bylaws.

6.7(2) The AAA board membership shall be representative of the geographic planning and service area.

6.7(3) Each AAA board of directors shall have board nominating and election procedures specified in its bylaws.

6.7(4) Each AAA shall specify in its bylaws the scope, function and responsibilities of the board, board committees and individual board members.

6.7(5) Each AAA shall provide an orientation process for newly elected board members that includes, at a minimum, the scope, function and responsibilities of the AAA and the responsibilities of the board, board committees and individual board members.

6.7(6) The department shall provide a minimum of four hours of training annually to AAA board members.

6.7(7) The AAA board of directors shall comply with Iowa Code chapter 504, "Revised Iowa Nonprofit Corporation Act."

[Filed 8/9/06, effective 10/4/06]
[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5333B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment rescinds the existing rule on records requirements for Medicaid providers and adopts a new rule in its place. The rule has been reorganized to eliminate duplication and to clarify existing policies about what records are necessary to support claims for Medicaid payment. The federal Centers for Medicare and Medicaid Services is increasing its scrutiny of claims records. Clearer standards for service documentation are essential to protect both the provider and the Department against federal disallowance of the claim and the resulting financial liability. The specific requirements are based on federal audit experience.

This amendment also adds new requirements specifying a time limit for producing records when they are requested by Department representatives. This rule gives providers 30 days for producing records and specifies that records that are not submitted timely will not be considered when the Department makes decisions about whether a claim is supported or should be denied or recouped. A provider will not be able to submit records in an appeal of a claim denial that the provider did not make available to the Department when the claim was originally adjudicated or reviewed. Submission of medical records for utilization review is required by the Department's contract with Medicaid providers and by federal regulation. Submission of records over an extended period increases Medicaid administrative costs and limits the ability of the state to recover overpayments timely.

This rule provides for a 15-day extension (waiver) of the 30-day deadline for producing records when the provider establishes good cause and a second 15-day extension if the provider can show exceptional circumstances for the failure to produce the records. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4890B**. The Department received more than 50 comments on the Notice of Intended Action. The majority of commenters were concerned about the medical orientation of the clinical record requirements, especially in relation to home- and community-based services. Medicaid is a medical program, and services for which Medicaid payment is claimed must meet medical documentation requirements. While the Department is not expecting waiver providers to use medical terminology or to demonstrate medical knowledge, there is a federal expectation that documentation will

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demonstrate that all services billed were actually provided and are consistent with the plan of care that is in place.

The Department has made the following changes to address these and other comments:

- Terminology has been changed from “fiscal” and “clinical” records to “financial” and “medical” records to be more accessible.

- A statement has been added to subrule 79.3(1) to clarify that documentation needed to support each item of service for which a charge is made may include other records necessary for reporting and accountability in addition to financial records. An example would be school attendance records for school-based services.

- Subrule 79.3(2) on medical records is reorganized to specify what information is needed on each page in the record, what information is needed in the record as a basis for providing the service, and what information is needed in the documentation of each service encounter.

An exception has been added to recognize that limited medical records will be required for providers of products or goods, such as drugs or medical equipment, or for providers of certain “ancillary” home- and community-based waiver services, such as chore service, transportation, meals, or financial management. Sufficient medical documentation will be limited to authorization, date, time and specific good or product.

New forms will be provided to meet the documentation requirements for providers of consumer-directed attendant care. These individual providers do not have professional training or oversight and may have difficulty in organizing the required information.

- Subrule 79.3(3) is clarified to indicate that the five-year required retention for financial and medical records is a minimum for Medicaid purposes. Accrediting bodies or standards of professional practice may require longer retention periods.

Provisions for a written decision on extension requests and rights to appeal the denial of a request are added to subrule 79.3(4).

- A description of the access requirements for on-site reviews or audits is added to subrule 79.3(4), since those procedures differ from audits or reviews conducted on records submitted to the Department.

The Council on Human Services adopted this amendment on August 9, 2006.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective on November 1, 2006.

The following amendment is adopted.

Rescind rule 441—79.3(249A) and adopt the following new rule in lieu thereof:

441—79.3(249A) Maintenance of records by providers of service. A provider of a service that is charged to the medical assistance program shall maintain complete and legible records as required in this rule. Failure to maintain records or failure to make records available to the department or to its authorized representative timely upon request may result in claim denial or recoupment.

79.3(1) Financial (fiscal) records.

a. A provider of service shall maintain records as necessary to:

(1) Support the determination of the provider’s reimbursement rate under the medical assistance program; and

(2) Support each item of service for which a charge is made to the medical assistance program. These records include financial records and other records as may be necessary for reporting and accountability.

b. A financial record does not constitute a medical record.

79.3(2) Medical (clinical) records. A provider of service shall maintain complete and legible medical records for each service for which a charge is made to the medical assistance program, except as provided in paragraph 79.3(2)“d.”

a. Definition. “Medical record” (also called “clinical record”) means a tangible history that provides evidence of:

(1) The provision of each service and each activity billed to the program; and

(2) First and last name of the member receiving the service.

b. Purpose. The medical record shall provide evidence that the service provided is:

(1) Medically necessary;

(2) Consistent with the diagnosis of the member’s condition; and

(3) Consistent with professionally recognized standards of care.

c. Components.

(1) Identification. The medical record shall contain demographic information about the member receiving services. Each page of the medical record shall contain:

1. The member’s full name.

2. The member’s date of birth.

3. The member’s medical assistance identification number.

(2) Basis for service. The medical record shall reflect the reason for performing the service or activity. Documentation may include one or more of the following, as applicable to the service being provided:

1. The member’s complaint or symptoms.

2. The member’s history.

3. Examination findings.

4. Diagnostic test results.

5. Goals or needs identified in the member’s plan of care.

6. The observer’s assessment, clinical impression, or diagnosis, including the date of the observation and the identity of the observer.

(3) Service documentation. The record for each service encounter shall include information necessary to support each item of service reported on the medical assistance claim form. The documentation shall identify the following:

1. The specific procedures or treatments performed.

2. The date and the beginning and ending time when the service was provided.

3. The location where the service was provided.

4. The name, dosage, and route of administration of any medication administered.

5. Medications or other supplies dispensed.

6. The first and last name and title of the person providing the service.

7. The signature of the person providing the service.

(4) Outcome of service. The medical record shall indicate the member’s progress in response to the services rendered, including any changes in treatment, alteration of the plan of care, or revision of the diagnosis.

d. Exceptions. A provider of products, goods, or ancillary services is required to maintain limited medical records that include a prescription or service plan notice of decision for the provision of goods and services.

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(1) "Ancillary services" means the following home- and community-based waiver services:

1. Chore service.
2. Financial management.
3. Transportation.
4. Home and vehicle modifications.
5. Personal emergency response systems.
6. Home-delivered meals.

(2) Providers of products, goods, or ancillary services shall maintain a financial record for each service encounter that includes the information necessary to support that each item reported on the medical assistance claim form was properly authorized and delivered. At a minimum, the record shall include the date and time of service and the specific product, good or service provided.

e. Forms. A provider of home- and community-based consumer-directed attendant care service may meet these requirements by completing the following forms:

- (1) Form 470-4388, Skilled Consumer-Directed Care Services, for skilled services;
- (2) Form 470-4389, Unskilled Consumer-Directed Attendant Care Services, for unskilled services; and
- (3) Form 470-4390, Consumer-Directed Attendant Care Addendum, as necessary.

79.3(3) Maintenance requirement. The provider shall maintain records as required by this rule:

- a. During the time the member is receiving services from the provider.
- b. For a minimum of five years from the date when a claim for the service was submitted to the medical assistance program for payment.
- c. As may be required by any licensing authority or accrediting body associated with determining the provider's qualifications.

79.3(4) Availability. The provider shall make supporting fiscal and clinical records available to the department or its authorized representative upon request.

a. Submission of records for review or audit. Upon formal written request for records, the provider must submit all responsive records to the department or its authorized agent within 30 days of the mailing date of the request, except as provided in paragraph "b."

b. Extension of time limit for submission.

(1) The department may grant an extension to the required submission date of up to 15 days upon written request from the provider or the provider's designee. The request must:

1. Establish good cause for the delay in submitting the records; and
2. Be received by the department before the date the records are due to be submitted.

(2) Under exceptional circumstances, a provider may request one additional 15-day extension. The provider or the provider's designee shall submit a written request that:

1. Establishes exceptional circumstances for the delay in submitting records; and
2. Is received by the department before the expiration of the initial 15-day extension period.

(3) The department may grant a request for an extension of the time limit for submitting records at its discretion. The department shall issue a written notice of its decision.

(4) The provider may appeal the department's denial of a request to extend the time limit for submission of requested records according to the procedures in 441—Chapter 7.

c. Records that are not received within the initial 30-day period or within an extension granted pursuant to 79.3(4)"b"

shall not be accepted or considered in any decision by the department regarding claim denial or recoupment.

d. Access to records during on-site review or audit. The department may elect to conduct announced or unannounced on-site reviews and audits. Records must be provided upon request and before the end of the on-site review or audit.

(1) For an announced on-site review or audit, the department's employee or authorized agent may give as little as one day's advance notice of the review or audit and the records and supporting documentation to be reviewed.

(2) No notice is required for unannounced on-site reviews and audits.

(3) In an on-site review or audit, the conclusion of that review or audit shall be considered as the end of the period within which to produce records.

This rule is intended to implement Iowa Code section 249A.4.

[Filed 8/10/06, effective 11/1/06]

[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5349B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

This amendment establishes rental fees for new cabins at Waubonsie State Park. The cabins are part of the newly acquired WaShawtee property, which had been operated as a girl scout camp.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5141B**. A public hearing was held on June 27, 2006. No written or oral comments were received. The amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code sections 461A.3, 461A.3A, 461A.35, 461A.47, and 461A.57.

This amendment will become effective October 4, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [61.5(1)"a"] is being omitted. This amendment is identical to that published under Notice as **ARC 5141B**, IAB 6/7/06.

[Filed 8/11/06, effective 10/4/06]

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[For replacement pages for IAC, see IAC Supplement 8/30/06.]

ARC 5350B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

The amendments require hunters who harvest a turkey to report their kill, require landowners and tenants to preregister before obtaining free wild turkey hunting licenses, and clarify tagging requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5146B**. No comments on the proposed amendments were received during the public comment period. A public hearing was held on June 27, 2006. No one attended. There were no changes from the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

These amendments shall become effective October 4, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [99.1, 99.10, 99.11(8), 99.12] is being omitted. These amendments are identical to those published under Notice as **ARC 5146B**, IAB 6/7/06.

[Filed 8/11/06, effective 10/4/06]

[Published 8/30/06]

[For replacement pages for IAC, see IAC Supplement 8/30/06.]

ARC 5351B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 105, "Deer Population Management Areas," Iowa Administrative Code.

Chapter 105 gives the regulations for hunting deer in deer population management zones. This amendment provides a penalty for failing to obey hunting zone regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 7, 2006, as **ARC 5142B**. No comments on the proposed amendment were received during the public comment period. A public hearing was held on June 27, 2006. No one attended. There were no changes from the Notice.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.8.

This amendment shall become effective October 4, 2006. The following amendment is adopted.

Add the following new subrule 105.3(6) and renumber existing subrule **105.3(6)** as **105.3(7)**:

105.3(6) Penalty for violating regulations. A hunter who violates the hunting regulations in a deer population management zone may forfeit the license for the remainder of the hunt and may forfeit the right to participate in a future year in addition to the imposition of any legal penalties.

[Filed 8/11/06, effective 10/4/06]

[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5370B**REGENTS BOARD[681]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby adopts an amendment to Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

This amendment is intended to add an admission fee for applicants in the PharmD program at the University of Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 24, 2006, as **ARC 5116B**. A comment period was established and ended June 13, 2006. No comments were received. This amendment is identical to that published under Notice.

This amendment was approved during the August 8, 2006, meeting of the Board of Regents.

This amendment will become effective on October 4, 2006.

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is adopted.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$60
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85
<i>PharmD student</i>	<i>\$100</i>
Re-entry fee	\$20

Iowa State University

Undergraduate domestic student	\$30
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$70
Veterinary Medicine	\$60

University of Northern Iowa

Undergraduate domestic student	\$30
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$50

[Filed 8/11/06, effective 10/4/06]

[Published 8/30/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/06.

ARC 5345B**STATE PUBLIC DEFENDER[493]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 7, "Definitions," Chapter 12, "Claims for Indigent Defense Services," and Chapter 14, "Claims for Attorney Fees in 600A Terminations," Iowa Administrative Code.

These amendments implement 2006 Iowa Acts, House File 2789, which revises the hourly rate paid for indigent defense cases, and 2006 Iowa Acts, House File 2672, which modifies eligibility for court-appointed counsel in Iowa Code chapter 600A termination cases.

Notice of Intended Action to solicit public comment on these amendments was published in the June 21, 2006, Iowa Administrative Bulletin as **ARC 5168B**. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 5167B**. A public hearing was held, and no comments were received, either at the public hearing or in writing. These amendments are identical to those published

under Notice of Intended Action and Adopted and Filed Emergency.

These amendments are intended to implement Iowa Code chapters 13B and 815 as amended by 2006 Iowa Acts, House File 2789, and chapter 600 as amended by 2006 Iowa Acts, House File 2672.

These amendments will become effective October 4, 2006, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [7.1, 12.4, 12.5(1), 12.5(2), 12.6(3)"a" and "b," 14.3, 14.5(1)"b"] is being omitted. These amendments are identical to those published under Notice as **ARC 5168B** and Adopted and Filed Emergency as **ARC 5167B**, IAB 6/21/06.

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